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ABSTRACT

In six sections, this guide suggests school record maintenance policies and procedures that conform to the requirements of state and federal legislation. Framing each section are the notions that school districts can legally protect the privacy of both students and parents, ensure that a process exists for challenging incorrect, inapproriate, or misleading materials in the records, guarantee that only authorized persons and agencies have access to the records, and allow that parents and students (over 18) can review the records. Section I provides guidelines for student personnel records. Section II describes a model policy for the maintenance of student records. Sections III and IV list federal laws and rules pertaining to education records. Section V lists state laws and rules pertaining to education records. Section VI describes confidential communications and the state rules that pertain to them. Appendices provide sample forms; a technical glossary of terms, definitions, and suggested policies and procedures related to student records; and a list of state archivist rules and a general records retention schedule for the public schools of Oregon. (JAM)

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STUDENT RECORDS

1989

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Salem, Oregon 97310-0290

Verne A. Duncan
State Superintendent
of Public Instruction

STUDENT RECORDS

Suggested Guidelines for School Districts

1989

Oregon Department of Education
Division of Special Student Services
700 Pringle Parkway SE
Salem, Oregon 97310-0290

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FOREWORD

The following guidelines were developed due to the importance placed on student records, confidentiality, and the protection of the rights and privacy of parents and students by both state and federal legislation.

The objectives of this legislation are: to protect the privacy of both students and parents; to insure that a process exists for challenging incorrect, inappropriate or misleading materials in the records; to enforce an orderly process in the maintenance and transfer of records; to guarantee that only authorized persons and agencies have access to the records, and to allow that parents and students (over 18) can review the records.

These guidelines are suggestions only. Each district must develop and implement its own policy and guidelines which conform to the requirements of state and federal legislation. Final responsibility for interpretation and application rests with each local district.

For further information, contact Bill Lesh, Special Student Services Section, 378-5585.

Verne A. Duncan
State Superintendent
of Public Instruction

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INTRODUCTION

The guidelines presented in this publication are suggestions only; their purpose is to assist school boards and administrators develop school policies regarding student records. Each school district is responsible for interpreting and applying both federal and state law related to student records. The Oregon Department of Education suggests these guidelines, but emphasizes that final responsibility rests with the local board.

These guidelines should not be seen as a definitive statement of the law on student records. The law is subject to constant interpretation and changes are made with each new interpretation. Too, the rights and privileges granted under law depend on the circumstances in each case. Court cases on the issues of student records are few in number, with most cases litigated in those states having statutes on student records. However, local school boards would be well advised to see that both policies and practices related to student records are in line with federal law and rules, and Oregon statutes and administrative rules, and should consult legal counsel as appropriate.

SECTION I

GUIDELINES FOR STUDENT PERSONNEL RECORDS

AUTHORITY

Federal Law

On August 21, 1974, federal legislation known as the "Education Amendments of 1974" was enacted, effective November 20, 1974. Section 513(a), Part C of the General Education Provisions Act was amended with the addition of a new section: "PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS," which was amended further by Senate Joint Resolution 40, and federal regulations authorized under Public Law 93-380.

Federal Rules

Federal rules on education records became effective on June 17, 1976.

Oregon Revised Statutes

ORS 336.185-215	Established a definition of student records, rules of inspection or release of student records; that student records are not public records for the purpose of ORS 192.005 and provisions for transfer of student records.
ORS 339.260(6)(7)(8)	Injury to school property by pupil, withholding records until damage paid; rules; inspection.
ORS 339.155	Prohibitions of certain fees as condition of admission; allowable fees.
ORS 40.245	Rule 504-3 — School Employee/Student Privilege.
ORS 192.496(4)	Public records exempt from disclosure; student records.
ORS 343.500(1)(d)	Pubic records exempt from disclosure.
ORS 343.177(4)	Temporary exclusion of child.

Oregon Administrative Rules

OAR 581-22-717(3)(4)	Records and Reports.
OAR 581-21-030	Limitation on Administration and Utilization of Tests in Public Schools.
OAR 166-40-1100	General Records Retention Schedule for the Public Schools of Oregon.

1.0 Purpose of Student Records

1.1 Student records are maintained for the benefit of the student. They should be used to promote the instruction, career development, guidance, and educational placement and progress of the student.

2.0 Definitions

State

2.1 "Student records" include all records relating to students maintained by any elementary or secondary school.

2.2 "Student behavioral records" are student records which include psychological tests, personality evaluations, records of conversations, and any written transcript of incidents relating specifically to student behavior.

2.3 "Student progress records" are student records which include transcripts of grades and courses taken, records of attendance, tests relating specifically to achievement or measurement of ability, and records of health (from ORS 336.185).

Federal

2.4 Federal legislation considers all information directly related to the student and maintained by the education agency or institution as educational records and makes no distinction between behavioral and progress records. Provision is made for directory information (13.1).

3.0 Which Law Applies

3.1 Where a direct conflict exists between Oregon law and federal law, a district receiving federal funds must follow federal laws relating to education rights and privacy or face the loss of federal funds.

3.2 The law which gives the greatest protection to the rights and privacy of parents and students shall take precedence in other cases.

3.3 Nothing in law prevents a district from giving greater protection to parents and students.

4.0 How to Separate Information on Testing

4.1 In determining whether test information belongs in the progress or behavioral record as defined, the classification given the test in the latest edition of Buros' Mental Measurement Yearbook should be the guideline. When a test is not listed in Buros, the district policy or administrative procedure should include a definition consistent with the test designer's stated purpose and the test manual's description.

5.0 Required Content of Records

5.1 The permanent record is that part of the progress record which contains:

(1) Name of the school
(2) Full name of the student
(3) Student birth date
(4) Name of parent/guardian
(5) Date of entry into the school
(6) Name of school previously attended
(7) Subjects taken
(8) Marks received
(9) Credits earned
(10) Attendance
(11) Date of withdrawal from school
(12) Such additional information as the district may prescribe

6.0 Access to Student Records

6.1 Board policy should provide for inspection of any student's records by the student's parent, legal guardian or surrogate until such time as the rights and privileges transfer to the student. Board policy should establish guidelines for determining which personnel within the school have legitimate reason for reviewing, making additions to or deletions from a student's records. School personnel with no legitimate educational interest in a particular student may not have access to records. Without written consent of the parent (or student when the rights are the student's), no third party may have access to the records except as required by federal law or as defined by board policy in accordance with Oregon law (ORS 336.195(4)).

6.1.1 Oregon law requires that student progress records shall be available to all teaching staff. However, federal law requires that only school personnel with legitimate educational interests in a particular student have access to a student's records.

6.1.2 Oregon law which requires release of behavioral records only in the presence of an individual qualified to explain or interpret the records is not at variance with federal law.

6.1.3 For the purpose of staff access to the records, release and use of the behavioral records should mean the same thing. Any school person who has responsibility for the behavioral record should be qualified to explain or interpret the record. A person qualified to interpret psychological tests and personality evaluations should be able to show evidence of proper training to make such interpretations. All staff should be considered qualified to interpret any behavioral material they have written. The building administrator, using criteria established in board policy, should be authorized to determine which staff members are qualified to interpret records of conversations and any written transcript of incidents relating specifically to student behavior, as well as psychological or placement tests.

6.1.4 A request to inspect, review, or challenge the records must be granted within 45 days. Board policy should describe the procedure for requesting and reviewing the record. Provision should be made for verbal requests so that those without command of the language or writing skills are not "effectively prevented" from having access to records.

6.1.5 Custodial and noncustodial parents share equal access to student records unless a court document is presented to the contrary.

6.2 Certain Records Exempt from Review

6.2.1 Students may not examine financial records of their parents or any information contained therein.

6.2.2 Confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, may not be examined if such letters or statements are not used for purposes other than those for which they were specifically intended.

6.2.3 A student may waive the right to inspect confidential recommendations for admission to an educational institution, in applying for employment or for receipt of an honor, provided that the student is notified of the names of the persons making the recommendations and that the waiver is not a requirement.

6.2.4 Personal records of students, which are records kept by staff members, are not considered educational records under federal law, provided that they are in the sole possession of the maker of the records and are not accessible or revealed to any other person except a substitute.

6.3 A student does not automatically have access to his/her own record by state or federal law prior to age 18. However, it is recommended that districts include a provision in their policy for students to have access to their own records.

7.0 Right to Challenge

7.1 The parent shall have an opportunity for a hearing to challenge the content of his/her child's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, and to provide an opportunity for the correction or deletion of such inaccurate, misleading or otherwise inappropriate data contained in the records. (Adapted from Section 513 (a), Part C of the General Education Provisions Act as amended.)

7.2 School boards should incorporate in their policy on student records provisions for challenging the records. As a minimum, the policy should provide:

(1) A reasonable method for requesting a hearing.
(2) Provision for holding the hearing within a reasonable length of time and at a reasonable location.
(3) A description of the hearing panel's composition.
  (a) a neutral, qualified third party is recommended.
  (b) a member chosen by the parent is recommended.
(4) A description of the rules to be followed.
(5) Provision for an appeal to the hearing panel's decision.
(6) The hearing should be private unless a public hearing is requested by the parent.

8.0 Age of Consent

8.1 When a student reaches age 18, is legally emancipated, or is attending an institution of postsecondary education, the permission or consent required of and the rights given to the parent shall be required of and granted to the student. (From Education Amendments of 1974.)

8.2 A student, in order to receive his/her rights prior to age 18, should have graduated or have a release from attendance from the local board in order to be considered as attending an institution of post-secondary education.

8.3 The parent of a dependent student is entitled to student record information pertaining to the student, as defined in Section 152 of the Internal Revenue Code of 1954.

9.0 Transfer of Progress Records

9.1 Oregon Revised Statutes require any school, education institution, education service district or any private school as defined in ORS 345.505 to transfer student progress records to any other school, educational institution or education service district upon receipt of notice of the student enrolling in that institution. (ORS 336.215)

9.2 Oregon Administrative Rules require transfer of student progress records upon receipt of notice of enrollment from another educational institution. (OAR 581-22-717(3))

10.0 Transfer of Behavioral Records

10.1 Oregon Revised Statutes do not provide for the release of student behavioral records to other institutions without written parental permission and must be released in the presence of the person qualified to interpret the records.

10.2 A parent may request a copy of the student behavioral record. It must be interpreted when furnished to the parent. The parent may release his/her copy of the record to another institution or party.

11.0 Method of Notification of Transfer

11.1 It is recommended that a message to parents similar to the following be included in each student handbook and in each registration packet: "This is your notification that should your child enroll in another school or school system, an official transcript or copy of the permanent record will be sent

to the school upon our receipt of notification of the child's enrolling in that institution. Prior to the withdrawal of your child from our district, you have a right to see your child's student records and a right to a hearing should you wish to challenge the content of the record. Your request for a hearing must allow two days between the request and the hearing. You may receive a copy of the record to be transferred if you wish. Any hearing must be held prior to the actual withdrawal of your child."

11.2 When progress records are being transferred without parental consent, the school must make a reasonable effort to notify the parents or eligible student at the last known address. Mailing a notice of transfer to the last known address ten days prior to transferring records may be considered reasonable effort.

11.3 A district requesting progress records of an enrolling student is not required to supply a written authorization from the parent; behavioral records require parental consent.

12.0 Inspection of Records by Third Parties

12.1 The Education Amendments of 1974 provide that certain state and federal agencies may inspect student records without written consent, but require that a record be maintained indicating specifically the legitimate educational or other interest that the person, agency, or organization has in seeking this information. This statement is to become a permanent part of the record, but only for inspection by the parent, the student over 18, and by the school official who is responsible for the custody of such records.

12.2 Records transferred to third parties shall be clearly marked with the statement, "These records may not be transfered except as provided for in Public Law 93-380 as amended."

12.3 The principal or designee shall indicate school personnel, by name, who have access to educational records and the purpose of their access.

12.4 A record of each access to a student's record by a person identified in 12.3 above as having a legitimate educational interest is not required.

13.0 Release of Directory Information

13.1 The following types of information shall be known as directory information: the student's name, address, telephone listing, date, and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

13.2 Each year, prior to releasing directory information, the school must give public notice of the categories it has designated as directory information. A designated period of time after such notice needs to be allowed prior to the publishing of the material. A parent may, by written notice to the school, within the designated time, prevent the school from publishing any or all of such information relating to his/her child unless written consent is given prior to each release.

14.0 Security of Records

14.1 Student records should be kept in a location where someone familiar with the local board's policy and appropriate laws on student's records can control access. Keeping files in a location which might allow inspection by unauthorized personnel could place a school in possible violation of both federal and state law.

14.2 A copy of the permanent record shall be kept in a safe, vault, or file with a minimum one-hour fire-safe rating. These duplicate records may be kept in a safe depository outside the building.

15.0 Notification of Rights

15.1 Federal law requires that parents and students be notified annually of their rights relating to student records. It is suggested that a statement similar to the following be published and a copy included in the student handbook and with registration materials:

"As a parent, a student over 18 years of age, or if you are attending a postsecondary education institution, you have the right to inspect your child's/your educational records. You have the right for a hearing should you choose to challenge the content of such records to insure that the records are not inaccurate, misleading, or otherwise in violation of your child's/your privacy or other rights, and to provide an opportunity to correct or delete any inaccurate, misleading, or otherwise inappropriate data contained in the records and to include with such records a written statement by the parent or eligible student regarding the content of the records. Your statement will remain as a part of the record as long as the disputed portion of the record exists. Your request to inspect the records shall be complied with _____ days from your request, but in no case more than 45 days from your request. The same time limits apply for a request for a hearing to challenge the content of such records.

"The principal in each building has a copy of the district's student records policy which you may examine. You may obtain a copy of the policy on records for a fee of _____ cents per page. You have the right to file a complaint with the U.S. Department of Education concerning alleged failures of the district to comply with the requirements of FERPA. Oregon schools maintain two types of student records which are designated as 'progress records' and 'behavior records.' The principal is the person in charge of the records in each building."

See Guidelines in model policy 5770.1, page 15.

15.2 All notices of rights and records transfer must be in the language predominantly spoken in the home. When the language is other than English, Spanish, or Russian, a request for exemption may be placed with the State Superintendent of Public Instruction.

16.0 Release of Information to State Agencies

16.1 Information may be released without prior written consent to state and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974.

16.2 Information may be furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, on the condition that the parent and the student are notified of any such order or subpoena in advance of the compliance therewith. Oregon law (ORS 336.195) requires that behavioral records be released only in the presence of an individual qualified to explain or interpret the records.

16.3 Information may be released to state educational agencies in order to evaluate, supervise, audit, or inspect federally or state supported educational programs, provided that personally identifiable information is protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and that such data shall be destroyed when no longer needed.

17.0 Research

17.1 No personally identifiable information may be released for research except as provided in Education Amendments of 1974. Researchers using information from student records should not be allowed to see a record without the written consent of the parent or student involved. However, personally identifiable data could be transformed by a staff member to a form usable by the researcher which would not identify individual students.

17.2 Information may be released without prior written consent to organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, or improving instruction. Such organizations must protect the personally identifiable information and destroy it when it is no longer needed for the purpose for which the study was conducted.

18.0 Report Cards

18.1 Report cards and any other report released to the parent or student without the presence of an individual qualified to explain or interpret the records shall contain progress data only.

18.2 In the event behavioral information of any nature is contained on a report card or any other type of communication, it may be released only in the presence of an individual qualified to explain or interpret it.

19.0 Burden of Proof

19.1 When one parent declares that the other parent or legal guardian does not have a right as described in the Family Education Rights and Privacy Act (FERPA) as amended, the burden of proof for the legality of that denial rests with the declaring parent. The school should allow for the rights under the law unless legal evidence denying that right is furnished.

19.2 When a student claims adult rights as an emancipated student, the burden of proof for the legality of the claim rests with the student.

20.0 Special Education Records

20.1 The district should indicate in the policy the type of record the special education record is considered to be. The Special Education Section has prepared a technical assistance paper to assist districts in this. Technical Assistance Paper # 3 is included in its entirety as Appendix B.

21.0 Retention and Destruction of Records

21.1 The Student Record Policy should include a schedule for reviewing and purging records. The minimum time records must be retained is identified in OAR 166-40-1100. This rule is included in its entirety in Appendix C, along with other State Archivist rules pertaining to the retention and destruction of public records.

22.0 Withholding Student Records

22.1 The authority and exceptions to withholding student records for fees owed or school property lost or willfully damaged is set forth as ORS 339.260 (3) through (8) which states:

(3) Any school district which is owed a fee or the property of which has been lost or willfully damaged or injured may withhold the grade reports, diploma or records of the pupil who owes the fee or is responsible for the loss or damage until the pupil or the parent or guardian of the pupil has paid the amount owed.

(4) When the pupil or the parent or guardian of the pupil is unable to pay the amount owed under subsection (3) of this section, the school district may waive the amount owed.

(5) The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(6) Notwithstanding subsections (3) and (4) of this section, a school district shall not withhold the records of a pupil in the circumstances described in ORS 336.195 (3) or when such records are requested by another school district for use in the appropriate placement of the pupil.

(7) Before any grade reports, diplomas or records are withheld under subsections (3) or (4) of this section, a school district board of directors shall adopt rules of procedure which insure that the rights of the pupil to due process are protected.

(8) Nothing in subsection (3) of this section is intended to prevent inspection of student records by a parent or legal guardian pursuant to ORS 336.195 (2) or 343.173.

23.0 Confidentiality

23.1 A certificated staff member does not have to disclose a conversation with a student, unless there is circumstances of imminent danger to the student or family

23.2 A school counselor cannot be examined as to any communication between the student and the counselor, unless the student's condition presents an imminent danger to the student or to others. In those cases a counselor shall report this fact to a responsible authority or take emergency measures as the situation demands.

24.0 Limitation on Administration and Utilization of Tests in Public Schools

24.1 Tests shall be considered as instruments to assist in decision making on the part of parents, school board, and professional staff. These may be used as follows in addition to other uses specified by local policies.

(1) To assist in decisions about the effectiveness of school programs.

(2) To assist in determining the attainment of specified educational outcomes.

(3) To provide information to the students about themselves, to parents, and to school staff to assist them in programmatic decisions.

24.2 Tests of intelligence, ability, achievement, or aptitude shall not be used as sole criterion for placement in educational group or tracks.

(1) Before administering individual intelligence tests and all tests of personality, districts shall inform parents of purpose and obtain written parent permission. In homes where the predominant language is not English, the above communication should be in the language spoken at home.

Note: When a school district believes it is not feasible to translate communication, the district may petition the Department of Education for a waiver.

25.0 Records Exempt From Disclosure

25.1 Test questions, scoring keys, and other academic examination data may not be disclosed before an examination is given or if the examination is to be used again.

25.2 Student records required by state or federal law to be exempt from public disclosure.

26.0 Proof of Age

26.1 Proof of age may include birth certificate, medical record, baptismal certificate, birth record in family bible, or any reliable document that has required proof of age previously (i.e., social security card, drivers license). If none of these is available, a notorized affidavit is acceptable.

SECTION II

MODEL POLICY ON STUDENT RECORDS

This is a suggested policy statement. School boards may choose to amend or otherwise alter the content to meet local conditions.

* The policy number 5700 is based on the pattern proposed in the **Table of Contents, Suggested Personnel Policy Guidelines for School Districts** first distributed by the Oregon Department of Education during the 1970 school year and revised in 1978. Additional copies are available at the Department of Education.

5700 Student Records

5710 —Authority

Public Law 93-380
Public Law 94-142
45 CFR Part 99
45 CFR Part 121a.570-121a.576
ORS 336.185-336.215
OAR 581-22-217(3)(4)

5720 —Definitions

5720.1 "Student records" include all records relating to students maintained by any elementary or secondary school or education service district.

5720.2 "Student behavioral records" are student records which include psychological tests, personality evaluations, records of conversations and any written transcript of incidents relating specifically to student behavior.

5720.3 "Student progress records" are student records which include transcripts of grades and courses taken, records of attendance, tests relating specifically to achievement or measurement of ability and records of health.

5720.4 "Directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, most recent previous educational agency or institution attended by the student, and such other categories of information as the superintendent shall designate under the authority of and in conformance with this policy.

5720.5 "Eligible student" means a student who is 18 years of age or is attending an institution of postsecondary education. The term also includes any student who has reached the age of majority.

5720.6 "Parent" means the parent or legal guardian, other than a state agency, of the child or the surrogate for the parent appointed pursuant to ORS 343.185.

5720.7 "Permanent record" means that portion of the progress record which includes:

(1) Name of school
(2) Full name of student
(3) Student birth date

(4) Name of parent(s)/guardian(s)
(5) Date of entry into the school
(6) Name of school previously attended
(7) Subjects taken
(8) Marks received
(9) Credits earned
(10) Attendance
(11) Date of withdrawal from school
(12) Such additional information as the district may prescribe

5720.8 "IEP" means the Individualized Education Plan of a handicapped student. It is part of the progress record. It is forwarded with the progress record. All information related to the IEP which is behavioral by definition is part of the behavioral record and is forwarded or released only in accordance with the law and this policy.

5720.9 "Memory aids and personal working notes" of individual staff members are considered personal property and are not to be interpreted as school records unless they are formalized for use as progress or behavioral records, provided that they are in the sole possession of the maker of the records and are not accessible or revealed to any other person except a substitute.

5730 —Responsibilities for Student Records

5730.1 The superintendent shall:

(1) Annually review this policy and make recommendation for revision to the board.
(2) Establish administrative procedures which assure the administration of student records in compliance with all related law.

5730.2 The principal or designee shall be the primary keeper of the records and shall have responsibility for supervising, collecting, recording, and releasing student record information.

The keeper of the record shall:

(1) Keep a list in the school office of all district personnel or contractors who have access to student records. This list shall be available for inspection by the parents of students and by eligible students. Only staff who have the student in a class or activity or who provide a service shall have access to that student's records.
(2) Assist the parent of a student or eligible student in identifying those from the list who have access to that student's records.
(3) Upon receipt of a request to review or inspect a student's record from the parent or eligible student, assure that an accurate, legible and complete set of records maintained on that student be gathered in one place for the inspection. If interpretation of a behavioral record is needed, the keeper of the record is to see that appropriate personnel are available for the review.
(4) Upon receipt of a request to inspect the record, assure that no part of the record is removed or destroyed prior to the inspection or the completion of the challenge process should it be initiated.
(5) Supervise the updating of the record in accordance with administrative rules of the district and the destruction schedule set by the State Archivist.
(6) Assure that the records are available for review within 45 days of request.

5730.3 School certificated staff shall have access to student "progress records" when there is a demonstrated educational interest in the student.

5730.4 School certificated staff shall have access to student "behavioral records" only in the presence of a person qualified to interpret the record and when there is a demonstrated interest in the student.

5730.5 The person qualified to interpret the record is the school principal, a school counselor, or other designated person with equivalent background to interpret psychological test information, psychological reports, or other similar information.

5730.6 Student teachers and practicum students are subject to the same restrictions as members of the certificated staff, and any release of information must be made by their certificated supervisor.

5730.7 Designated paraprofessional and clerical staff may have access to student records for purposes of making entries or maintenance of records, but they shall do so under the supervision of a certificated staff member qualified to interpret the record.

5730.8 Guidelines for determining certificated staff members with demonstrated interest in the student are as follows:

- teacher having the student in class or student activity
- counselor having the student assigned as a counselee
- certificated staff member participating in a staff review or case review for a particular student
- specialist providing instruction or a service to the student

5740 —Withdrawal of Student—Transfer of Student Records

5740.1 Student progress records, including a copy of the permanent record, shall be forwarded to any other school, educational institution, or education service district upon notice of enrolling of the student, provided that the parent is notified of the records to be transferred and reasonable time is allowed for review of the records. A reasonable attempt to notify parents of the transfer should be made if prior notice has not been given.

5740.2 Parents and eligible students will be notified that it is a practice of the district to send the progress record to another school, educational institution or education service district upon receipt of notice of enrollment in the institution. This notice will be in a student/parent handbook supplied to each student and parent upon registration each year. The notice will be included with the annual notice of directory information and notice of all rights related to student records.

5740.3 Behavioral records may be forwarded to any other school, educational institution or educational service district upon request of the parent or eligible student. Also, a parent or eligible student may obtain a copy of the behavioral record at the current cost of photocopying. When the parent obtains the copy it must be interpreted to the parent in accordance with ORS 336.195.

5740.4 A copy of the student's permanent record will be retained in the school office in a file, safe or vault with a one-hour fire-safe rating. All other records will be retained in the school building until destroyed in accordance with the schedule established by the State Archivist in OAR 166-40-1100.

5750 —Conditions for Release of Student Records

5750.1 All student records maintained by the school shall be made available for inspection by the student, the student's parent or legal guardian or surrogate, except that behavioral records shall be released only in the presence of a person qualified to interpret the records.

(1) At the time of enrollment, the school shall provide a statement that in the event of divorce, both parents still have full opportunity to inspect student records, unless the custodial parent provides the school a court document denying access to school records by the noncustodial parent. The school should verify with the court issuing the document that the document is valid and no later court action has overturned the order presented to the school.

5750.2 Progress records may be released to other persons, agencies or institutions with a demonstrated interest in the student only if a written release has been signed by the parent or legal guardian or by the student if 18 years of age or older.

Certain other select individuals and agencies may have access to student records without prior written consent from the student's parent: the Comptroller General of the United States, the Secretary of Education, an administrative head of an education agency (as defined in Section 408(c) of PL 93-380), state educational authorities, and those in conjunction with a student's application for, or receipt of, financial aid. The student shall not have access to the financial records of the parents.

5750.3 All persons, agencies, or organizations desiring access to the records of a student, shall sign a written form kept in the file of the student, but only for the inspection by the parent or student, indicating specifically the legitimate interest of the person, agency, or organization in seeking this information. This form shall be available to the parent and to the school official responsible for maintenance of the record. Other staff shall not have access to the form.

5750.4 Progress records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to the records without written consent of the parent or the student. When records are transferred to a third party, the following written statement shall accompany the transfer: "Federal and state statutes prohibit sharing of the contents of this record with another party without the written consent of the parent of the student."

5750.5 Release of student records may be made by the superintendent or designee for use in any proceedings in compliance with judicial order or lawfully issued subpoena, upon condition that the parent and student are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency. Personal delivery of the records to the court will be made by a certificated staff member qualified to explain or interpret the records.

5750.6 Information gained as a result of conversations, conferences, or staff meetings regarding student problems must be kept confidential. Release of student record information by telephone is prohibited except as required in meeting emergency or unusual circumstances, provided that release of such information is necessary to protect the health and safety of the student or other individuals. The principal or other school official shall consult CFR 45 Part 99.36 in determining the need to release for that purpose.

5750.7 Information gathered for research purposes shall not be released in any manner which would allow personal identification of students.

5750.8 The principal or designated representative may withhold the report cards, diploma, or other records of the pupil who owes a fee or has lost or willfully damaged or injured district property, until the parent or guardian of the pupil has paid the amount owed.

(1) Certain fees as specified in ORS 339.155 are allowable.

(2) Notice — The student's parents shall be given written notice of the possible withholding at least ten (10) days in advance of the actual withholding.

(3) Hearing — Notice shall include itemization and/or cost of property. The parents may have a hearing on the question of withholding the student's records by a written request during the ten days in advance of the actual withholding.

(4) The school district may waive the amount owed.

(5) The withholding of records shall not prevent inspection of student records by a parent, guardian or eligible student; or prevent transfer of student records to another district when such records are requested for use in the appropriate placement of the pupil.

5760 —Provision for Hearing to Challenge the Content of the Student Record

5760.1 Upon reviewing the student records, if the parent believes that such records are inaccurate, inappropriate or misleading, the parent shall have the right to challenge the contents of the record. If the person responsible for the record agrees that the record is inaccurate, inappropriate or misleading, steps shall be taken to correct the record.

5760.2 If the person responsible for the record does not concur with the parent, then hearing procedures shall be instituted as follows:

(1) The parent makes a request for a hearing in which the objections are specified in writing to the school principal.
(2) The principal establishes a date, time and location for the hearing agreeable to both parties.
(3) The hearings panel consists of the following:
- the principal or designated representative,
- a member chosen by the parent,
- a neutral, qualified third party appointed by the superintendent.
(4) The hearing is private. Persons other than the student, parent or guardian, witnesses, and counsel are not to be admitted unless the parent or eligible student request a public hearing.

5760.3 The principal or designated representative shall preside over the panel. This person hears evidence from the school staff and from the parent to determine the point or points of disagreement regarding the records. The principal makes a determination after hearing the evidence and determines what steps, if any, are to be taken to correct the record. Such actions are to be made in writing to the parent.

5760.4 If, after such hearing is held as described above, the parent is not satisfied with the recommended action, the parent may appeal to the district school board at which time the action of the hearings panel may be reviewed and affirmed, reversed, or modified. Procedure for appeal beyond the local district board follows the prescribed action as set forth in federal regulations.

5760.5 If the parent or eligible student is not satisfied with the results of the hearing, the parent/student may have a written statement explaining his/her view of the disputed portion of the record placed in the record. The explanation shall be kept with the record as long as the disputed portion exists.

5770 —Annual Notification

5770.1 Annual notifications of all rights related to student records shall be made through the student/parent handbook prepared by the principal. The notice shall include the following as required by Family Education Rights and Privacy Act and Public Law 94-142.

(1) The right of a student's parent or an eligible student to inspect and review the student's education records and to obtain a copy at cost of photocopy.
(2) The intent of the school district to limit the disclosure of information contained in a student's education records except:
(a) by the prior written consent of the student's parent or the eligible student,
(b) as directory information, or
(c) under certain limited circumstances, as permitted under FERPA.
(3) The right of a student's parent or an eligible student to seek to correct parts of the student's education record which he/she belives to be inaccurate, misleading, or otherwise in violation of student rights. This right includes the right to a hearing to present evidence that the record should be changed if the district decides not to alter it according to the parent's or eligible student's request.
(4) The right to obtain copy of this policy by requesting one from the building principal.
(5) The right to report violations of FERPA to the U.S. Department of Education.
(6) The right to be informed about FERPA rights.

All rights and protections given parents under FERPA and this policy transfer to the student when the student reaches age 18 or enrolls in a postsecondary school. The student then becomes an "eligible student." THE DISTRICT WILL ARRANGE TO PROVIDE TRANSLATIONS OF THIS NOTICE TO NON-ENGLISH SPEAKING PARENTS IN THEIR NATIVE LANGUAGE.

5770.2 The annual notice of intent to publish directory information will be published in the local newspaper at least two weeks prior to the opening of school each year. It will also be reprinted in the student/parent handbook and given to any parent, guardian or eligible student at time of enrollment. Parents of students enrolling at any other time of year shall be granted two weeks after enrolling to give the written notice required if they wish to prevent any or all of the directory information from being published or released.

The notice shall contain: the specific categories of information designated as directory information, the right of the parent or eligible student to prevent the district from releasing specific items or all items regarding the student or parent; that they have ten days to notify the school if the parent/eligible student wish to exercise the option to prevent release; that the notice to the school must be in writing; that there may be written notice to the school to revise their statement to be effective within 10 days of receipt of the notice by the school; and that the effective period of this notice extends to the date the next notice takes effect.

The superintendent shall determine the categories of directory information each year in compliance with the most current information available regarding the laws, rules, and interpretations related to directory information.

5770.3 Parents and eligible students shall be informed each year of the types of records kept by the district, the location of the records and the individuals having access to the records.

5770.4 Annual notice of fees for obtaining a copy of the record shall be included in the student/parent handbook. The superintendent shall set the fee schedule each year based on the cost of photocopy per page to the district.

5770.5 Annual notice of where the districts student record policy may be examined and the cost of obtaining a copy upon request shall be included in the student/parent handbook.

5770.6 Notice that material contained in the record is no longer needed to provide special education services for a student receiving said services shall be made after reevaluation of the student. No record information shall be destroyed prior to the minimum

time set by the State Archivist. The parent shall be informed of the time that information no longer needed to provide services must remain in the record according to State Archivist Rule OAR 166-40-1100.

5770.7 Notice of others having access to student records without prior written consent shall be made by including the following statement in the parent/student handbook.

"The Education Amendments of 1974 provide that certain state and federal agencies may inspect student records without written consent but requires that a record be maintained indicating specifically the legitimate educational or other interest that the person, agency or organization has in seeking this information. This statement is to become a permanent part of the record only for inspection by the parents or students over 18 and the school official who is responsible for the custody of such records."

Records transferred to third parties shall be clearly stamped with the statement, "These records may not be transferred except as provided for under Public Law 93-380 as amended."

5770.8 Parents and eligible students will be informed of the transfer of records process as contained in policy 5740.2.

5780 —Records Retention and Destruction

5780.1 The student records will be retained the minimum time set by the State Archivist in OAR 166-40-1100.

5780.2 The records will be stored in the school within the district where the student is enrolled or where the student was last enrolled. The high school keeper of the records shall assure that disposition of all records of high school enrollees are maintained in accordance with this policy.

SECTION III

FEDERAL LAW

Family Education Rights and Privacy Act, Public Law 93-380 as Amended by Public Law 93-568

[45 CFR Part 99]

PRIVACY RIGHTS OF PARENTS AND STUDENTS

Proposed Establishment of Part

Sec. 438.(a)(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) the term "education records" does not include—

(i) records of institutional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b)(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency who have been determined by such agency or institution to have legitimate educational interests;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) Secretary, (iii) an administrative head of an education agency (as defined in section 408(c) of this title), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's applications for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of Title 26; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from either limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported educational program, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

Surveys or data-gathering activities; regulations

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

Students' rather than parents' permission or consent

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

Informing parents or students of rights under this section

(e) No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

Enforcement; termination of assistance

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

Office and review board; creation; functions

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

[*See main volume for text of (A) to (I), closing provisions; (2) to (4)*]

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education programs or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the provision in paragraph (3).

Pub. L. 90-247, Title IV, § 438, as added Pub. L. 93-380, Title V, § 513(a), Aug. 21, 1974, 88 Stat. 571, and amended Pub. L. 93-568, § 2(a), Dec. 31, 1974, 88 Stat. 1858 as amended Pub. L. 96-46, § 4(c), Aug. 6, 1979, 93 Stat. 342.

SECTION IV

FEDERAL RULE ON EDUCATION RECORDS

Title 45 — Public Welfare

SUBTITLE A, PART 99 - PRIVACY RIGHTS OF PARENTS AND STUDENTS

Subpart A — General

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(Source: 45 FR 30911, May 9, 1980, unless otherwise noted.)

Authority: Sec. 438, Pub. L. 90-247, Title IV, as amended, 88 Stat. 571-574 (20 U.S.C. 1232g).

Subpart A — General

§ 99.1 Applicability of part.

(a) This part applies to all educational agencies or institutions to which funds are made available under any Federal program for which the Secretary of the U.S. Department of Education has administrative responsibility, as specified by law or by delegation of authority pursuant to law.
(20 U.S.C. 1230, 1232g)

(b) This part does not apply to an educational agency or institution solely because students attending that nonmonetary agency or institution receive benefits under one or more of the Federal programs referenced in paragraph (a) of this section, if no funds under those programs are made available to the agency or institution itself.

(c) For the purposes of this part, funds will be considered to have been made available to an agency or institution when funds under one or more of the programs referenced in paragraph (a) of this section: (1) Are provided to the agency or institution by grant, contract, subgrant, or subcontract, or (2) are provided to students attending the agency or institution and the funds may be paid to the agency or institution by those students for educational purposes, such as under the Basic Educational Opportunity Grants Program and the Guaranteed Student Loan Program (Titles IV-A-1 and IV-B, respectively, of the Higher Education Act of 1965, as amended).
(20 U.S.C. 1232g)

(d) Except as otherwise specifically provided, this part applies to education records of students who are or have been in attendance at the educational agency or institution which maintains the records.
(20 U.S.C. 1232g)

§ 99.2 Purpose.

The purpose of this part is to set forth requirements governing the protection of privacy of parents and students under section 438 of the General Education Provisions Act, as amended.
(20 U.S.C. 1232g)

§ 99.3 Definitions.

As used in this Part:

"Act means the General Education Provisions Act, Title IV of Pub. L. 90-247 as amended.

"Attendance" at an agency or institution includes, but is not limited to: (a) attendance in person and by correspondence, and (b) the period during which a person is working under a work-study program.
(20 U.S.C. 1232g)

"Directory information" includes the following information relating to a student: the student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, and other similar information.
(20 U.S.C. 1232g(a)(5)(A))

"Disclosure" means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
(20 U.S.C. 1232g(b)(1))

"Educational institution" or "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any Federal program referenced in § 99.1(a). The term refers to the agency or institution recipient as a whole, including all of its components (such as schools or departments in a university) and shall not be read to refer to one or more of these components separate from that agency or institution.
(20 U.S.C. 1232g(a)(3))

"Education records" (a) means those records which: (1) Are directly related to a student, and (2) are maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include:

(1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

(i) Are in the sole possession of the maker thereof, and

(ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

(2) Records of a law enforcement unit of an educational agency or institution which are:

(i) Maintained apart from the records described in paragraph (a) of this definition;

(ii) Maintained solely for law enforcement purposes, and

(iii) Not disclosed to individuals other than law enforcement officials of the same jurisdiction; *Provided,* That education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

(3)(i) Records relating to an individual who is employed by an educational agency or institution which:

(A) Are made and maintained in the normal course of business;

(B) Relate exclusively to the individual in that individual's capacity as an employee, and

(C) Are not available for use for any other purpose.

(ii) This paragraph does not apply to records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student.

(4) Records relating to an eligible student which are:

(i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity;

(ii) Created, maintained, or used only in connection with the provision of treatment to the student, and

(iii) Not disclosed to anyone other than individuals providing the treatment; *Provided,* That the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the educational agency or institution.

(5) Records of an educational agency or institution which contain only information relating to a person after that person was no longer a student at the educational agency or institution. An example would be information collected by an education agency or institution pertaining to the accomplishments of its alumni.

(20 U.S.C. 1232g(a)(4))

"Eligible student" means a student who has attained eighteen years of age, or is attending an institution of postsecondary education.

(20 U.S.C. 1232g(d))

"Financial Aid," as used in § 99.31 (a)(4), means a payment of funds provided to an individiual (or a payment in kind of tangible or intangible property to the individual) which is conditioned on the individual's attendance at an educational agency or institution.

(20 U.S.C. 1232g(b)(1)(D))

"Institution of postsecondary education" means an institution which provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided, as determined under State law.

(20 U.S.C. 1232g(d))

"Panel" means the body which will adjudicate cases under procedures set forth in § 99.65-99.67.

"Parent" includes a parent, a guardian, or an individual acting as a parent of a student in the absence of a parent or guardian. An educational agency or institution may presume the parent has the authority to exercise the rights inherent in the Act unless the agency or institution has been provided with evidence that there is a State law or court order governing such matters as divorce, separation or custody, or a legally binding instrument which provides to the contrary.

"Party" means an individual, agency, institution or organization.

(20 U.S.C. 1232g(b)(4)(A))

"Personally identifiable" means that the data or information includes (a) the name of a student, the student's parent, or other family member, (b) the address of the student, (c) a personal identifier, such as the student's social security number or student number, (d) a list of personal characteristics which would make the student's identity easily traceable, or (e) other information which would make the student's identity easily traceable.

(20 U.S.C. 1232g)

"Record" means any information or data recorded in any medium, including, but not limited to: handwriting, print, tapes, film, microfilm, and microfiche.
(20 U.S.C. 1232g)

"Secretary" means the Secretary of the U.S. Department of Education.
(20 U.S.C. 1232g)

"Student" (a) includes any individual with respect to whom an educational agency or institution maintains education records.

(b) The term does not include an individual who has not been in attendance at an educational agency or institution. A person who has applied for admission to, but has never been in attendance at a component unit of an institution of postsecondary education (such as the various colleges or schools which comprise a university), even if that individual is or has been in attendance at another component unit of that institution of postsecondary education, is not considered to be a student with respect to the component to which an application for admission has been made.
(20 U.S.C. 1232g(a)(5))

§ 99.4 Student rights.

(a) For the purposes of this part, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student.

(b) The status of an eligible student as a dependent of his or her parents for the purposes of § 99.31 (a)(8) does not otherwise affect the rights accorded to and the consent required of the eligible student by paragraph (a) of this section.
(20 U.S.C. 1232g(d))

(c) Section 438 of the Act and the regulations in this part shall not be construed to preclude educational agencies or institutions from according to students rights in addition to those accorded to parents of students.

§ 99.5 Formulation of institutional policy and procedures.

(a) Each educational agency or institution shall, consistent with the minimum requirements of section 438 of the Act and this part, formulate and adopt a policy of—

(1) Informing parents of students or eligible students of their rights under § 99.6;

(2) Permitting parents of students or eligible students to inspect and review the education records of the student in accordance with § 99.11, including at least:

(i) A statement of the procedure to be followed by a parent or an eligible student who requests to inspect and review the education records of the student;

(ii) With an understanding that it may not deny access to an education record, a description of the circumstances in which the agency or institution feels it has a legitimate cause to deny a request for a copy of such records;

(iii) A schedule of fees for copies, and

(iv) A listing of the types and locations of education records maintained by the educational agency or institution and the titles and addresses of the officials responsible for those records;

(3) Not disclosing personally identifiable information from the education records of a student without the prior written consent of the parent of the student or the eligible student, except as otherwise permitted by § 99.31 and 99.37; the policy shall include, at least: (i) A statement of whether the educational agency or institution will disclose personally identifiable information from the education records of a student under § 99.31(a)(1) and, if so, a specification of the criteria for determining which parties are "school officials" and what the educational agency or institution considers to be a "legitimate educational interest," and (ii) a specification of the personally identifiable information to be designated as directory information under § 99.37;

(4) Maintaining the record of disclosures of personally identifiable information from the education records of a student required to be maintained by § 99.32, and permitting a parent or an eligible student to inspect that record;

(5) Providing a parent of the student or an eligible student with an opportunity to seek the correction of education records of the student through a request to amend the records or a hearing under Subpart C, and permitting the parent of a student or an eligible student to place a statement in the education records of the student as provided in § 99.21(c);

(b) The policy required to be adopted by paragraph (a) of this section shall be in writing and copies shall be made available upon request to parents of students and to eligible students.
(20 U.S.C. 1232g(e) and (f))

§ 99.6 Annual notification of rights.

(a) Each educational agency or institution shall give parents of students in attendance or eligible students in attendance at the agency or institution annual notice by such means as are reasonably likely to inform them of the following:

(1) Their rights under section 438 of the Act, the regulations in this part, and the policy adopted under § 99.5; the notice shall also inform parents of students or eligible students of the locations where copies of the policy may be obtained; and

(2) The right to file complaints under § 99.63 concerning alleged failures by the educational agency or institution to comply with the requirements of section 438 of the Act and this part.

(b) Agencies and institutions of elementary and secondary education shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

(20 U.S.C. 1232g(e))

§ 99.7 Limitations on waivers.

(a) Subject to the limitations in this section and § 99.12, a parent of a student or a student may waive any of his or her rights under section 438 of the Act or this part. A waiver shall not be valid unless in writing and signed by the parent or student, as appropriate.

(b) An educational agency or institution may not require that a parent of a student or student waive his or her rights under section 438 of the Act or this part. This paragraph does not preclude an educational agency or institution from requesting such a waiver.

(c) An individual who is an applicant for admission to an institution of postsecondary education or is a student in attendance at an institution of postsecondary education may waive his or her right to inspect and review confidential letters and confidential statements of recommendation described in § 99.12(a)(3) except that the waiver may apply to confidential letters and statements only if: (1) The applicant or student is, upon request, notified of the names of all individuals providing the letters or statements; (2) the letters or statements are used only for the purpose for which they were originally intended, and (3) such waiver is not required by the agency or institution as a condition of admission to or receipt of any other service or benefit from the agency or institution.

(d) All waivers under paragraph (c) of this section must be executed by the individual, regardless of age, rather than by the parent of the individual.

(e) A waiver under this section may be made with respect to specified classes of: (1) Education records, and (2) persons or institutions.

(f)(1) A waiver under this section may be revoked with respect to any actions occurring after the revocation.

(2) A revocation under this paragraph must be in writing.

(3) If a parent of a student executes a waiver under this section, that waiver may be revoked by the student at any time after he or she becomes an eligible student.

(20 U.S.C. 1232g(a)(1)(B) and (C))

§ 99.8 Fees.

(a) An educational agency or institution may charge a fee for copies of education records which are made for the parents of students, students, and eligible students under section 438 of the Act and this part; *Provided,* That the fee does not effectively prevent the parents and students from exercising their right to inspect and review those records.

(b) An educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

(20 U.S.C. 1232g(a)(1))

Subpart B — Inspection and Review of Education Records

§ 99.11 Right to inspect and review education records.

(a) Each educational agency or institution, except as may be provided by § 99.12, shall permit the parent of a student or an eligible student who is or has been in attendance at the agency or institution, to inspect and review the education records of the student. The agency or institution shall comply with a request within a reasonable period of time, but in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under paragraph (a) of this section includes:

(1) The right to a response from the educational agency or institution to reasonable requests for explanations and interpretations of the records; and

(2) The right to obtain copies of the records from the educational agency or institution where failure of the agency or institution to provide the copies would effectively prevent a parent or eligible student from exercising the right to inspect and review the education records.

(c) An educational agency or institution may presume that either parent of the student has authority to inspect and review the education records of the student unless the agency or institution has been provided with evidence that there is a legally binding instrument, or a State law or court order governing such matters as divorce, separation or custody, which provides to the contrary.

§ 99.12 Limitations on right to inspect and review education records at the postsecondary level.

(a) An institution of postsecondary education is not required by section 438 of the Act or this part to permit a student to inspect and review the following records:

(1) Financial records and statements of their parents or any information contained therein;

(2) Confidential letters and confidential statements of recommendation which were placed in the education records of a student prior to January 1, 1975; *Provided,* That:

(i) The letters and statements were solicited with a written assurance of confidentiality, or sent and retained with a documented understanding of confidentiality, and

(ii) The letters and statements are used only for the purposes for which they were specifically intended;

(3) Confidential letters of recommendation and confidential statements of recommendation which were placed in the education records of the student after January 1, 1975:

(i) Respecting admission to an educational institution;

(ii) Respecting an application for employment, or

(iii) Respecting the receipt of an honor or honorary recognition; *Provided,* That the student has waived his or her right to inspect and review those letters and statements of recommendation under § 99.7(c).

(20 U.S.C. 1232g(a)(1)(B))

(b) If the education records of a student contain information on more than one student, the parent of the student or the eligible student may inspect and review or be informed of only the specific information which pertains to that student.

(20 U.S.C. 1232g(a)(1)(A))

§ 99.13 Limitation on destruction of education records.

An educational agency or institution is not precluded by section 438 of the Act or this part from destroying education records, subject to the following exceptions:

(a) The agency or institution may not destroy any education records if there is an outstanding request to inspect and review them under § 99.11;

(b) Explanations placed in the education records under § 99.21 shall be maintained as provided in § 99.21(d), and

(c) The record of access required under § 99.32 shall be maintained for as long as the education record to which it pertains is maintained.

(20 U.S.C. 1232g(f))

Subpart C — Amendment of Education Records

§ 99.20 Request to amend education records.

(a) The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate or misleading or violates the privacy or other rights of the student may request that the educational agency or institution which maintains the records amend them.

(b) The educational agency or institution shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the educational agency or institution decides to refuse to amend the education records of the student in accordance with the request it shall so inform the parent of the student or the eligible student of the refusal, and advise the parent or the eligible student of the right to a hearing under § 99.21.

(20 U.S.C. 1232g(a)(2))

§ 99.21 Right to a hearing.

(a) An educational agency or institution shall, on request, provide an opportunity for a hearing in order to challenge the content of a student's education records to insure that information in the education records of the student is not inaccurate, misleading or otherwise in violation of the privacy or other rights of students. The hearing shall be conducted in accordance with § 99.22.

(b) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of students, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing.

(c) If, as a result of the hearing, the educational agency or institution decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of students, it shall inform the parent or eligible student of the right to place in the education records of the student a statement commenting upon the information in the education records and/or setting forth any reasons for disagreeing with the decision of the agency or institution.

(d) Any explanation placed in the education records of the student under paragraph (c) of this section shall:

(1) Be maintained by the educational agency or institution as part of the education records of the student as long as the record or contested portion thereof is maintained by the agency or institution, and

(2) If the education records of the student or the contested portion thereof is disclosed by the educational agency or institution to any party, the explanation shall also be disclosed to that party.

(20 U.S.C. 1232g(a)(2))

§ 99.22 Conduct of the hearing.

The hearing required to be held by § 99.21(a) shall be conducted according to procedures which shall include at least the following elements:

(a) The hearing shall be held within a reasonable period of time after the educational agency or institution has received the request, and the parent of the student or the eligible student shall be given notice of the date, place and time reasonably in advance of the hearing;

(b) The hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing;

(c) The parent of the student or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under § 99.21, and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

(d) The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing; and

(e) The decision of the agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

(20 U.S.C. 1232g(a)(2))

Subpart D — Disclosure of Personally Identifiable Information From Education Records

§ 99.30 Prior consent for disclosure required.

(a) (1) An educational agency or institution shall obtain the written consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of a student, other than directory information, except as provided in § 99.31.

(2) Consent is not required under this section where the disclosure is to (i) the parent of a student who is not an eligible student, or (ii) the student himself or herself.

(b) Whenever written consent is required, an educational agency or institution may presume that the parent of the student or the eligible student giving consent has the authority to do so unless the agency or institution has been provided with evidence that there is a legally binding instrument, or a State law or court order governing such matters as divorce, separation or custody, which provides to the contrary.

(c) The written consent required by paragraph (a) of this section must be signed and dated by the parent of the student or the eligible student giving the consent and shall include:

(1) A specification of the records to be disclosed,

(2) The purpose or purposes of the disclosure, and

(3) The party or class of parties to whom the disclosure may be made.

(d) When a disclosure is made pursuant to paragraph (a) of this section, the educational agency or institution shall, upon request, provide a copy of the record which is disclosed to the parent of the student or the eligible student, and to the student who is not an eligible student if so requested by the student's parents.

(20 U.S.C. 1232g(b)(1) and (b)(2)(A))

§ 99.31 Prior consent for disclosure not required.

(a) An educational agency or institution may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is—

(1) To other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests;

(2) To officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in § 99.34;

(3) Subject to the conditions set forth in § 99.35, to authorized representatives of:

(i) The Comptroller General of the United States,

(ii) The Secretary, or

(iii) State educational authorities;

(4) In connection with financial aid for which a student has applied or which a student has received; *Provided,* That personally identifiable information from the education records of the student may be disclosed only as may be necessary for such purposes as:

(i) To determine the eligibility of the student for financial aid,

(ii) To determine the amount of the financial aid,

(iii) To determine the conditions which will be imposed regarding the financial aid, or

(iv) To enforce the terms or conditions of the financial aid;

(5) To State and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974. This subparagraph applies only to statutes which require that specific information be disclosed to State or local officials and does not apply to statutes which permit but do not require disclosure. Nothing in this paragraph shall prevent a State from further limiting the number or type of State or local officials to whom disclosures are made under this subparagraph;

(6) To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction; *Provided,* That the studies are conducted in a manner which will not permit the personal identification of students and their parents by individuals other than representatives of the organization and the information will be destroyed when no longer needed for the purposes for which the study was conducted; the term "organizations" includes, but is not limited to, Federal, State and local agencies, and independent organizations;

(7) To accrediting organizations in order to carry out their accrediting functions;

(8) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

(9) To comply with a judicial order or lawfully issued subpoena; *Provided,* That the educational agency or institution makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance therewith; and

(10) To appropriate parties in a health or safety emergency subject to the conditions set forth in § 99.36.

(b) This section shall not be construed to require or preclude disclosure of any personally identifiable information from the education records of a student by an educational agency or institution to the parties set forth in paragraph (a) of this section.

(20 U.S.C. 1232g(b)(1))

§ 99.32 Record of requests and disclosures required to be maintained.

(a) An educational agency or institution shall for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record kept with the education records of the student which indicates:

(1) The parties who have requested or obtained personally identifiable information from the education records of the student, and

(2) The legitimate interests these parties had in requesting or obtaining the information.

(b) Paragraph (a) of this section does not apply:

(i) To requests by or disclosure to a parent of a student or an eligible student;

(ii) To requests by or disclosures to school officials under § 99.31(a)(1);

(iii) If there is written consent of a parent of a student or an eligible student, or

(iv) To requests for or disclosure of directory information under § 99.37.

(c) The record of requests and disclosures may be inspected:

(1) By the parent of the student or the eligible student,

(2) By the school official and his or her assistants who are responsible for the custody of the records, and

(3) For the purpose of auditing the recordkeeping procedures of the educational agency or institution by the parties authorized in, and under the conditions set forth in § 99.31(a)(1) and (3).

(20 U.S.C. 1232g(b)(4)(A))

§ 99.33 Limitations on redisclosure.

(a) An educational agency or institution may disclose personally identifiable information from the education records of a student only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the personally identifiable information which is disclosed to an institution, agency or organization may be used by its officers, employees and agents, but only for the purposes for which the disclosure was made.

(b) Paragraph (a) of this section does not preclude an agency or institution from disclosing personally identifiable information under § 99.31 with the understanding that the information will be redisclosed to the other parties under that section; *Provided,* That the recordkeeping requirements of § 99.32 are met with respect to each of those parties.

(c) An educational agency or institution shall, except for the disclosure of directory information under § 99.37, inform the party to whom a disclosure is made of the requirement set forth in paragraph (a) of this section.

(20 U.S.C. 1232g(b)(4)(B))

§ 99.34 Conditions for disclosure to officials of other schools and school systems.

(a) An educational agency or institution transferring the education records of a student pursuant to § 99.31(a)(2) shall:

(1) Make a reasonable attempt to notify the parent of the student or the eligible student of the transfer of the records at the last known address of the parent or eligible student, except:

(i) When the transfer of the records is initiated by the parent or eligible student at the sending agency or institution, or

(ii) When the agency or institution includes a notice in its policies and procedures formulated under § 99.5 that it forwards education records on request to a school in which a student seeks or intends to enroll; the agency or institution does not have to provide any further notice of the transfer;

(2) Provide the parent of the student or the eligible student, upon request, with a copy of the education records which have been transferred; and

(3) Provide the parent of the student or the eligible student, upon request, with an opportunity for a hearing under Subpart C of this part.

(b) If a student is enrolled in more than one school, or receives services from more than one school, the schools may disclose information from the education records of the student to each other without obtaining the written consent of the parent of the student or the eligible student; *Provided,* That the disclosure meets the requirements of paragraph (a) of this section.

(20 U.S.C. 1232g(b)(1)(B))

§ 99.35 Disclosure to certain Federal and State officials for Federal program purposes.

(a) Nothing in section 438 of the Act or this part shall preclude authorized representatives of officials listed in § 99.31(a)(3) from having access to student and other records which may be necessary in connection with the audit and evaluation of Federally supported education programs, or in connection with the enforcement of or compliance with the Federal legal requirements which relate to these programs.

(b) Except when the consent of the parent of a student or an eligible student has been obtained under § 99.30, or when the collection of personally identifiable information is specifically authorized by Federal law, any data collected by officials listed in § 99.31(a)(3) shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of or compliance with Federal legal requirements.
(20 U.S.C. 1232g(b)(3))

§ 99.36 Conditions for disclosure in health and safety emergencies.

(a) An educational agency or institution may disclose personally identifiable information from the education records of a student to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(b) The factors to be taken into account in determining whether personally identifiable information from the education records of a student may be disclosed under this section shall include the following:

(1) The seriousness of the threat to the health or safety of the student or other individuals;

(2) The need for the information to meet the emergency;

(3) Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and

(4) The extent to which time is of the essence in dealing with the emergency.

(c) Paragraph (a) of this section shall be strictly construed.
(20 U.S.C. 1232g(b)(1)(I))

§ 99.37 Conditions for disclosure of directory information.

(a) An educational agency or institution may disclose personally identifiable information from the education records of a student who is in attendance at the institution or agency if that information has been designated as directory information (as defined in § 99.3) under paragraph (c) of this section.

(b) An educational agency or institution may disclose directory information from the education records of an individual who is no longer in attendance at the agency or institution without following the procedures under paragraph (c) of this section.

(c) An educational agency or institution which wishes to designate directory information shall give public notice of the following:

(1) The categories of personally identifiable information which the institution has designated as directory information;

(2) The right of the parent of the student or the eligible student to refuse to permit the designation of any or all of the categories of personally identifiable information with respect to that student as directory information; and

(3) The period of time within which the parent of the student or the eligible student must inform the agency or institution in writing that such personally identifiable information is not to be designated as directory information with respect to that student.
(20 U.S.C. 1232g(1)(5)(A) and (B))

Subpart E — Enforcement

§ 99.60 Office and review board.

(a) The Secretary is required to establish or designate an office and a review board under section 438(g) of the Act. The office will investigate, process, and review violations, and complaints which may be filed concerning alleged violations of the provisions of section 438 of the Act and the regulations in this part. The review board will adjudicate cases referred to it by the office under the procedures set forth in § 99.65-99.67.

(b) The following is the address of the office which has been designated under paragraph (a) of this section: The Family Educational Rights and Privacy Act Office (FERPA), Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.
(20 U.S.C. 1232g(g))

§ 99.61 Conflict with State or local law.

An educational agency or institution which determines that it cannot comply with the requirements of section 438 of the Act or of this part because a State or local law conflicts with the provisions of section 438 of the Act or the regulations in this part shall so advise the office designated under § 99.60(b) within 45 days of any such determination, giving the text and legal citation of the conflicting law.
(20 U.S.C. 1232g(f))

§ 99.62 Reports and records.

Each educational agency or institution shall (a) submit reports in the form and containing such information as the Office of the Review Board may require to carry out their functions under this part, and (b) keep the records and afford access thereto as the Office or the Review Board may find necessary to assure the correctness of those reports and compliance with the provisions of sections 438 of the Act and this part.
(20 U.S.C. 1232g(f) and (g))

§ 99.63 Complaint procedure.

(a) Complaints regarding violations of rights accorded parents and eligible students by section 438 of the Act or the regulations in this part shall be submitted to the Office in writing.

(b)(1) The Office will notify each complainant and the educational agency or institution against which the violation has been alleged, in writing, that the complaint has been received.

(2) The notification to the agency or institution under paragraph (b)(1) of this section shall include the substance of the alleged violation and the agency or institution shall be given an opportunity to submit a written response.

(c)(1) The Office will investigate all timely complaints received to determine whether there has been a failure to comply with the provisions of section 438 of the Act or the regulations in this part, and may permit further written or oral submissions by both parties.

(2) Following its investigation the Office will provide written notification of its findings and the basis for such findings, to the complainant and the agency or institution involved.

(3) If the Office finds that there has been a failure to comply, it will include in its notification under paragraph (c)(2) of this section, the specific steps which must be taken by the agency or educational institution to bring the agency or institution into compliance. The notification shall also set forth a reasonable period of time, given all of the circumstances of the case, for the agency or institution to voluntarily comply.

(d) If the educational agency or institution does not come into compliance within the period of time set under paragraph (c)(3) of this section, the matter will be referred to the Review Board for a hearing under § 99.64-99.67, inclusive.
(20 U.S.C. 1232g(f))

§ 99.64 Termination of funding.

If the Secretary, after reasonable notice and opportunity for a hearing by the Review Board, (a) finds that an educational agency or institution has failed to comply with the provisions of section 438 of the Act, or the regulations in this part, and (b) determines that compliance cannot be secured by voluntary means, he shall issue a decision, in writing, that no funds under any of the Federal programs referenced in § 99.1(a) shall be made available to that educational agency or institution (or, at the Secretary's discretion, to the unit of the educational agency or institution affected by the failure to comply) until there is no longer any such failure to comply.
(20 U.S.C. 1232g(f))

§ 99.65 Hearing procedures.

(a) *Panels.* The Chairman of the Review Board shall designate Hearing Panels to conduct one or more hearings under § 99.64. Each Panel shall consist of not less than three members of the Review Board. The Review Board may, at its discretion, sit for any hearing or class of hearings. The Chairman of the Review Board shall designate himself or any other member of a Panel to serve as Chairman.

(b) *Procedural rules.* (1) With respect to hearings involving, in the opinion of the Panel, no dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party to the proceeding an opportunity for presenting his case at the option of the Panel (i) in whole or in part in writing or (ii) in an informal conference before the Panel which shall afford each party: (A) Sufficient notice of the issues to be considered (where such notice has not previously been afforded); and (B) an opportunity to be represented by counsel.

(2) With respect to the hearings involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall afford each party an opportunity, which shall include, in addition to provisions required by subparagraph (1)(ii) of this paragraph, provisions designed to assure to each party the following:

(i) An opportunity for a record of the proceedings;

(ii) An opportunity to present witnesses on the party's behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(20 U.S.C. 1232g(g))

§ 99.66 Hearing before Panel or a Hearing Officer.

A hearing pursuant to § 99.65(b)(2) shall be conducted, as determined by the Panel Chairman, either before the Panel or a hearing officer. The hearing officer may be (a) one of the members of the Panel or (b) a nonmember who is appointed as a hearing examiner under 5 U.S.C. 3105.

(20 U.S.C. 1232g(g))

§ 99.67 Initial decision; final decision.

(a) The Panel shall prepare an initial written decision, which shall include findings of fact and conclusions based thereon. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions which shall be incorporated in the initial decision prepared by the Panel.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party (or to the party's counsel), and to the Secretary with a notice affording the party an opportunity to submit written comments thereon to the Secretary within a specified reasonable time.

(c) The initial decision of the Panel transmitted to the Secretary shall become the final decision of the Secretary, unless, within 25 days after the expiration of the time for receipt of written comments, the Secretary advises the Review Board in writing of his determination to review the decision.

(d) In any case in which the Secretary modifies or reverses the initial decision of the Panel, he shall accompany that action with a written statement of the grounds for the modification or reversal, which shall promptly be filed with the Review Board.

(e) Review of any initial decision by the Secretary shall be based upon the decision, the written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties, or by their counsel, to the preceedings.

(f) No decision under this section shall become final until it is served upon the educational agency or institution involved or its attorney.

(20 U.S.C. 1232g(g))

SECTION V

STATE LAW

STUDENT RECORDS

336.185 Definitions for ORS 336.185 to 336.215. For purposes of ORS 44.040 and 336.185 to 336.215, the following definitions will apply:

(1) "Student records" include all records relating to students maintained by any elementary, secondary school or education service district.

(2) "Student behavioral records" are student records which include psychological tests, personality evaluations, records of conversations and any written transcript of incidents relating specifically to student behavior.

(3) "Student progress records" are student records which include transcripts of grades and courses taken, records of attendance, tests relating specifically to achievement or measurement of ability, and records of health.

(4) "Superintendent" means the highest ranking administrative officer in a school district or an educational institution, or in the absence of the superintendent, the person designated to fulfill the functions.

(5) "Board" means the board of directors of a school district or other educational institution. [1971 c.512 §1; 1979 c.274 §1]

336.190 [Repealed by 1955 c.290 §1]

336.195 Student records confidential; rules for inspection or release. (1) All student records maintained by a school, educational institution or education service district shall be confidential, and except as hereinafter provided shall be open for inspection only in accordance with such rules as the board shall adopt.

(2) The board shall establish rules to provide that all student records maintained by any elementary or secondary school in the district shall be available for inspection by any parent or legal guardian requesting to see such records; however, student behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records.

(3) Release of student behavioral records for use in any proceedings, civil or criminal, in any court of this state shall be made only by the superintendent or a designated representative, or with the consent of the student or juvenile so confiding or to whom such records relate, if the student is 18 years of age or over, or if the person is a minor, with the consent of the parent or legal guardian of the person. Release shall be made only in the presence of an individual qualified to explain or interpret the records.

(4) Student progress records shall be available to all teaching staff, parents, legal guardians or surrogate parents. [1971 c.512 §2; 1973 c.827 §30; 1979 c.274 §2]

336.200 [Repealed by 1955 c.290 §1]

336.205 [1971 c.512 §5; repealed by 1979 c.274 §4]

336.210 [Repealed by 1955 c.290 §1]

336.215 Transfer of student records to other schools or districts. (1) Any school, educational institution or education service district shall transfer to any other school, educational institution or education service district all student progress records relating to a particular individual provided that they have received notice of the student enrolling in the school or institution.

(2) Any private school, as defined in ORS 345.505, must promptly transfer to any other school, educational institution or education service district all student progress records relating to a particular student upon receipt of notice of the student's enrollment in the other school or institution. [1971 c.512 §3; 1975 c.557 §11; 1979 c.274 §3]

339.260 Withholding records until damage paid. (3) Any school district which is owed a fee or the property of which has been lost or willfully damaged or injured may withhold the report cards, diploma, or records of the pupil who owes the fee or is responsible for the loss or damage until the pupil or the parent or guardian of the pupil has paid the amount owed.

(4) When the pupil or the parent or guardian of the pupil is unable to pay the amount owed under subsection (3) of this section, the school district may waive the amount owed.

(6) Notwithstanding subsections (3) and (4) of this section, a school district shall not withhold the records of a pupil in the circumstances described in ORS 336.195(3) or when such records are requested by another school district for use in the appropriate placement of the pupil.

(7) Before any report cards, diplomas, or records are withheld under subsections (3) or (4) of this section, a school district board of directors shall adopt rules of procedure which ensure that the rights of the pupil to due process are protected.

(8) Nothing in subsection (3) of this section is intended to prevent inspection of student records by a parent or legal guardian pursuant to ORS 336.195(2) or 343.173. [1965 c.100 §290; 1971 c.561 §4; 1985 c.514 §1]

192.496 Public records exempt from disclosure because of age; student records. (4) Student records required by state or federal law to be exempt from disclosure. [1979 c.301 §3]

192.500 Public records exempt from disclosure. (1) The following public records are exempt from disclosure under ORS 192.410 to 192.500 unless public interest requires disclosure in a particular instance.

(d) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the examination is given and if the examination is to be used again.

339.155 Prohibitions of certain fees as condition of admission; allowable fees. (1) No district school board shall require payment of fees as a condition of admission to those pupils entitled under the law to free admission. However, the following are not considered as conditions of admission:

(a) Pursuant to ORS 336.165, but subject to ORS 336.168, tuition may be charged for courses not part of the regular school program.

(b) No charge shall be made for a standard, prescribed textbook but a security deposit may be required which may be refunded if the textbook is returned in usable condition. Supplemental texts shall be made available on loan.

(c) A deposit may be charged for a lock for a locker.

(2) A district board may require pupils who do not furnish their own attire for physical education classes to pay an appropriate fee for uniforms provided by the district.

(3) A district board may require pupils who do not provide appropriate towels for physical education classes to pay a fee for use of towel provided by the district.

(4) A district board may require payment of fees for use of musical instruments owned or rented by the district, the fee not to exceed the rental cost to the district or the annual depreciation plus actual maintenance cost for each instrument; except that children exempt from tuition under ORS 336.168 shall be loaned musical instruments by the school district without charge.

(5) Subject to ORS 336.168, a district school board may require payment of fees in any of the following:

(a) In any program the resultant product, in excess of minimum course requirements and at the pupil's option, become property of the pupil.

(b) Admission fees or charges for extracurricular activities where pupil attendance is optional.

(c) A security deposit conditioned on the return of materials, supplies, or equipment, including athletic equipment.

(d) Items of personal use or products which a pupil may purchase, such as student publications, class rings, annuals, and graduation announcements.

(e) Field trips considered optional to a district's regular school program.

(f) Any authorized voluntary pupil health and accident benefit plan.

(g) As used in this subsection, "minimum course requirements" means any product required to be produced to meet the goals of the course. [1975 c.508 §1; 1977 c.99 §1; 1977 c.815 §3]

STATE RULE

Records and Reports

581-22-717 (1) Required Records and Reports: The school district shall provide all records and reports required by the Oregon Department of Education.

(2) Student Activity Funds: The school district shall prescribe the purposes for which student activity funds may be obtained and used and the role of students in management and expenditure of funds.

(3) Student Records: The school district shall adopt a student records policy which:

(a) Is in compliance with Oregon Revised Statutes and Oregon Administrative Rules;

(b) Provides for maintaining permanent student records to include:

(A) Name of school,
(B) Full name of student,
(C) Student birth date,
(D) Name of parents/guardians,
(E) Date of entry into the school,
(F) Name of school previously attended,
(G) Subjects taken,
(H) Marks received,
(I) Credits earned,
(J) Attendance,
(K) Date of withdrawal from school, and
(L) Such additional information as the district may prescribe;

(c) Provides for the retention of permanent records in a minimum one-hour fire-safe place in the school, the school district or education service district office, or for keeping duplicate permanent records in a safe depository outside the building;

(d) Provides for transferring student progress records to another educational institution upon receipt of notice of enrollment; and

(e) Provides for transferring behavioral records to another educational institution only upon request of the student's parent(s), guardian(s), or the student if age 18 or older.

(4) Evaluating Student Transcripts: In evaluating student transcripts, the school district shall:

(a) Accept competence, credits and attendance completed in standard Oregon schools as if they had been earned in the enrolling district;

(b) For out-of-state transfer students:

(A) Accept credits and attendance completed in standard secondary schools as if the requirements had been completed in this state, and

(B) Determine competence the student must demonstrate to meet the graduation requirements;

(c) For students from private, alternative, or nonstandard public secondary schools:

(A) Determine the value of prior credits,

(B) Determine the number of years of school attendance or equivalent, and

(C) Determine competence the students must demonstrate to meet the graduation requirements;

(d) Determine placement for students enrolled in grades K/1 through 8;

(e) Determine the value of credits obtained through correspondence courses in meeting the graduation requirements; and

(f) Determine the value of credits obtained in approved community college programs in meeting graduation requirements.

Stat. auth.: ORS Ch. 326

Hist: 21 IEB 19-1980, f. 6-17-80, ef. 7-1-80

SECTION VI

CONFIDENTIAL COMMUNICATIONS

40.245 Rule 504-3 (1) A certificated staff member of an elementary or secondary school shall not be examined in any civil action or proceeding as to any conversation between the certificated staff member and a student which relates to personal affairs of the student or family of the student and which, if disclosed, would tend to damage or incriminate the student or family. Any violation of the privilege provided by this subsection may result in the suspension of certification of the professional staff member or provided in ORS 342.175, 342.177, and 342.180.

(2) A certificated school counselor regularly employed and designated in such capacity by a public school shall not, without the consent of the student, be examined as to any communication made by the student to the counselor in the official capacity of the counselor in any civil action or proceeding or a criminal action or proceeding in which such student is a party concerning the past use, abuse, or sale of drugs, controlled substances, or alcohol. Any violation of the privilege provided by this subsection may result in the suspension of certification of the professional school counselor as provided in ORS 342.175, 342.177, and 342.180. However, in the event that the student's condition presents a clear and imminent danger to the student or to others, the counselor shall report this fact to an appropriate, responsible authority or take such other emergency measures as the situation demands. [1981 c.892 §33c]

STATE RULE

581-22-717 Testing

Limitation on Administration of Utilization of Tests in Public Schools

581-21-030 (1) Tests shall be considered as instruments that are means to assist decision making on the part of parents, the public school, school boards, and the professional staff rather than ends unto themselves. Tests may be used as follows in addition to other uses specified in local policies:

(a) To assist in making decisions about the effectiveness of school programs.

(b) To assist in determining the attainment of specified educational outcomes.

(c) To provide information to the students about themselves, to parents, and to school staff which may assist them in making programmatic decisions of benefit to the student.

(2) Tests of intelligence, ability, achievement, or aptitude shall not be used as sole criterion for placement of students in educational groups or tracks:

(a) Before administering individual intelligence tests (as opposed to group intelligence tests) and all tests of personality to children in pubic schools, districts shall inform parents as to the purpose of testing; and the parents written permission shall be obtained. In homes where the predominant language spoken is not English, the communication on the purpose of testing should be in the language spoken in the home.

(b) When a school district believes it is not feasible to comply with subsection (2)(a) of this rule, it may petition the Department of Education for a waiver in accordance with the procedure contained in the State Standards of Oregon Public Schools.

Stat. Auth.: ORS Ch. 326 and 336

Hist.: IEB 141 f. 10-5-72, ef. 10-15-72; IEB 173 f. 7-1-84, ef. 9-1-74; IEB 226 f. and ef. 6-4-76; IEB 16-1982 f. 8-4-82, ef. 8-5-82.

APPENDICES

Appendix A — Sample Forms

Appendix B — Technical Assistance Paper #3: "Confidentiality of Special Education Records"

Appendix C — State Archivist Rules and General Schedule for the Public Schools of Oregon

SAMPLE FORMS

Sample Notice of Transfer and Rights to be Included With Registration Material to Parents

This is to inform you that in the event we should receive notice that your child has enrolled in another school, we shall send the progress records to the new school within five days. The behavior records will be sent only upon your written request to inspect the behavioral record. Depending on the nature of the content, you may be asked to pick them up in person.

At any time prior to the transfer of the records, you may inspect the records. Your request to inspect progress records will be granted within 16 working hours of your request. More time will be required for a request to inspect the behavioral record, but in no case will it exceed 45 days. The building principal will inform you of the specific arrangements regarding inspection.

Should you desire to challenge the accuracy or appropriateness of the record, a hearing will be arranged within 45 days of your request. The building principal will inform you of the specific arrangements for your hearing. Both informal and/or formal hearings may be requested. You have a right to enter a statement in the record regarding the record contents.

You may have a copy of any portion of the record should you wish. The actual cost of reproduction will be charged to you.

When your child reaches age 18 or is attending a postsecondary institution, the rights to inspect and challenge the records shall be accorded only to your child.

Request to Transfer Records from Present School

In the event we should move and you receive notice that my child has (or I have) enrolled in another educational institution, please transfer _____ progress records, _____ behavioral records, _____ all educational records. I will inform you in writing if I would like a copy of the records. Should I want a copy of the behavioral record, I understand that I must be present in person to pick up a copy of the record, which may be released only in the presence of a person qualified to interpret it.

_____ _____

Signature Date

Request to Transfer Records from Last School

Please forward to _____

from _____ _____ all educational records, _____

the progress records, _____ the behavioral records of _____

who enrolled on _____ .

_____ _____

Signature Date

Sample Notice to Accompany Records Transferred Out of State

To whom it may concern:

Enclosed please find a copy of the progress records you requested.

Oregon law requires that material which is behavioral in nature be treated separately from the progress information. Oregon law requires that behavioral information be transferred only on request of the parent or the eligible student. Since the behavioral record also includes any material of a psychological nature, it is recommended that you ask the parent or eligible student to request the behavioral record should it not be enclosed. The behavioral record is ____/is not ____ included in this package.

Sincerely,

Principal

_____ School

_____ School District

Sample Record of Third Party Access

Agency or person requesting or granted access to the record _____

Reason for granting access to the record _____

Date for access _____

Keeper of the record at the time of access _____

Sample Waiver of Right to Inspect Confidential Recommendation

I waive my right to inspect the recommendation of _____
(Person)

to _____ which will only be used for the purpose of
(Party to whom sent)

_____
(Specific purpose)

_____ _____
Signature Date

_____ _____
Signature of Witness Date

Sample Letter to Third Party Requesting Information From Student Records

To whom it may concern:

Your request for information contained in the educational records of _____ cannot be granted without a specific request from the student's parent if the student is under 18 years of age. The request must state specifically to whom the information is to be released, the purpose of the release, and which information is to be released. The request must be signed and dated.

This is necessary in order to comply with the portion of PL 93-380 known as the Protection of Rights and Privacy of Parents and Students.

Sincerely,

Principal

_____ School

_____ School District

TECHNICAL ASSISTANCE PAPERS

A Series on PL 94-142 and Related Oregon Laws

Confidentiality of Special Education Records

Technical Assistance Paper 3

August 1980
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This document was developed with the assistance of the Northwest Regional Resource Center, Eugene, Oregon, pursuant to Contract Number OEG 300-78-0020 with the Department of Health, Education and Welfare, Bureau of Education for the Handicapped. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education and no endorsement by the U.S. Office of Education should be inferred.

STATEMENT OF ASSURANCE
Oregon Department of Education

It is the policy of the Oregon Department of Education that no person be subjected to discrimination on the basis of race, national origin, religion, sex, age, handicap, or marital status in any program, service, or activity for which the Oregon Department of Education is responsible. The Department will comply with the requirements of state and federal law concerning nondiscrimination and will strive by its actions to enhance the dignity and worth of all persons.

INTRODUCTION

This is one in a series of technical assistance papers on Public Law 94-142 and related Oregon statutes and administrative rules. The series is being developed by the Oregon Department of Education to provide districts with more information about the law, answer frequently asked questions, and supply districts with model forms and checklists. Districts may wish to compare these with their own forms or they may wish to adopt the models provided. It should be noted that papers are based on current interpretations of the law, and as such, these interpretations are subject to change.

This paper outlines requirements for managing the records of handicapped students in compliance with the special requirements of PL 94-142, the Family Educational Rights and Privacy Act which applies to all student records, and Oregon statute. For more information, contact the Special Education Section at the Department, 378-2677, or toll free in Oregon 1-800-452-7813.

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DEFINITIONS

Behavioral Records

Psychological (intelligence) tests, personality evaluations, records of conversations, and any written transcript of incidents relating specifically to student behavior. (ORS 336.185)

Buckley Amendment

The more common way of referring to the Family Educational Rights and Privacy Act (FERPA) of 1976.

CFR (Code of Federal Regulations)

A codification of regulations first published in the *Federal Register* by the departments and agencies of the federal government; divided into 50 titles representing broad areas subject to federal regulation. CFR citations in this paper are drawn from Title 45, Chapter 1, Part 121a, which includes regulations for implementing PL 94-142, and Title 45, Subtitle A, Part 99, for implementing the Family Educational Rights and Privacy Act.

CFR Comment

Explanations of PL 94-142 or FERPA regulations quoted from the *Code of Federal Regulations;* not part of the regulations, but useful for interpretation.

Consent

As related to the release of student records, means: 1) in writing, 2) specifies the records to be released, 3) states reasons for release, 4) identifies party or class of parties to whom records may be released, and 5) is signed and dated by the parent. (45 CFR Part 99.30)

Directory Information

Includes: student's name, address, telephone number, date and place of birth, institutions or educational agencies attended, dates of attendance, area of study, degrees and awards received, most recently attended institution or agency, participation in officially recognized sports, weight and height of members of athletic teams, and other similar information as designated by the district. (45 CFR Part 99.3) See also "Disclosure of Directory Information," page 7.

Disclosure

Access to or the release, transfer or other communication of educational records of the student, or personally identifiable information contained in the records, through oral, written, electronic or other means to any party. (45 CFR Part 99.3)

Education Records

Records which are related directly to a student, and maintained by an educational agency or institution or by a party acting for the agency or institution. (45 CFR Part 99.3) Used interchangeably with the Oregon term "student records." (See page 2.)

Eligible Student

A student who is 18 years of age, or is attending an institution of postsecondary education. (45 CFR Part 99.3) The rights accorded to and the consent required of the parent are transferred to the student at this time.

Family Educational Rights and Privacy Act of 1976 (FERPA)

Protects the privacy rights of parents and students as related to education records; commonly referred to as the Buckley Amendment.

Oregon Administrative Rule (OAR)

Regulation implementing an Oregon Revised Statute (ORS); has the authority of a law. OAR 581-15-005 through OAR 581-15-201 pertain to special education.

Oregon Revised Statute (ORS)

Law passed by the Oregon State Legislature.

Parent

"...the parent or legal guardian, other than a state agency, of the child or the surrogate for the parent appointed pursuant to ORS 343.153" (OAR 581-15-005). The district may presume that either parent has the authority to exercise all parental rights under the law unless the school has been provided evidence of a legally binding instrument, a law or court order governing such matters as divorce, separation, or custody, which provides to the contrary (45 CFR Part 99.3).

Permanent Record

That part of the student's Progress Record which includes: the name of the school, full name of the student, date of birth, name of parent(s) or legal guardian or surrogate, date of entry into the school, name of school previously attended, subjects taken, marks received and/or credits earned, attendance, date of withdrawal from school, and such additional information as the district may prescribe. The Permanent Record must be retained indefinitely in a minimum one-hour fire-safe place at the school, the district or ESD office; or duplicate permanent records must be kept in a safe depository outside the building. (OAR 581-22-717)

Personally Identifiable

1) Name of the child, the child's parent, or other family member, 2) address, 3) a personal identifier, such as the child's social security number or student number, or 4) a list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty. (45 CFR Part 99.3 and Part 121a.500)

Progress Record

Includes: transcripts of grades and courses, attendance records, tests relating specifically to achievement or measurement of performance ability, and health records (ORS 336.185). The Permanent Record is part of the Progress Record.

Student Records

Include all records relating to students maintained by any elementary or secondary school (ORS 336.185); two types: Progress Records (including the Permanent Record) and Behavioral Records. This term is used interchangeably with the federally defined term "education records."

Surrogate Parent

An individual who acts in place of a parent in safeguarding the rights of a child who is handicapped or suspected of being handicapped in decisions involving special education for the child when the parent is unknown, unavailable, or the child is a ward of the state (OAR 581-15-005). The rights of the surrogate parent are limited, as described under PL 94-142 (45 CFR Part 121a.514) and OAR 581-15-099.

LEGAL AUTHORITY

45 CFR Part 99 (Statutory Authority: Family Educational Rights and Privacy Act)
45 CFR Part 121a.570-121a.576 (Statutory Authority: Public Law 94-142)
OAR 581-15-005 (Statutory Authority: ORS 343.055)
OAR 581-15-055 (Statutory Authority: ORS 192-500, ORS 336.185–ORS 336.215, ORS 343.035, ORS 343.045, ORS 343.055)
OAR 581-15-075 (Statutory Authority: ORS 343.055, ORS 343.163, ORS 343.173)
OAR 581-15-099 (Statutory Authority: ORS 343.185)
OAR 581-22-717 (Statutory Authority: ORS 336.185–ORS 336.215)

OVERVIEW OF REQUIREMENTS

STUDENT RECORDS POLICY

According to 45 CFR Part 99.5, the district must adopt a written policy on student records and make it available upon request to the parent. The district policy includes provisions to:

1. Annually inform the parent of the parent's rights.

2. Permit the parent to inspect and review student records, including at least:

   - a statement of the procedure to be followed by a parent who makes a request to inspect and review student records;
   - with an understanding that it may not deny access to student records, a description of those circumstances which may cause the district to feel that it has legitimate cause for denying a request for a copy of such records;
   - a schedule of fees for making copies;
   - a list of the types and locations of educational records collected, maintained or used by the district; and
   - the title and address (i.e., location) of the school official who is responsible for insuring the confidentiality of personally identifiable information. (45 CFR Part 121a.572)

3. Not disclose personally identifiable information from student records without prior written consent of the parent except as otherwise permitted. (See "Disclosure Not Requiring Written Consent of the Parent," page 6.) At minimum, the policy includes: 1) a statement as to whether the district will disclose personally identifiable information from student records under 45 CFR Part 99.31 (see "Disclosure Not Requiring Written Consent of the Parent") and, if so, a specification of the criteria for determining which parties are "school officials" and what the district considers to be "a legitimate educational interest;" 2) a specification of the personally identifiable information to be designated as directory information.

4. Maintain a record of disclosures. (See DISCLOSURE OF STUDENT RECORDS," page 6.) The parent has a right to inspect the record.

5. Provide the parent with an opportunity to seek correction of the record through a request to amend the records or a hearing under 45 CFR Part 99.21. The parent has a right to place a statement in the records. (See "Right to Request a Hearing to Challenge Information in the Student's Records," page 4.)

According to OAR 581-22-717, the district student record policy shall also:

1. Comply with Oregon Revised Statutes and Oregon Administrative Rules.

2. Provide for maintaining permanent student records to include:

   - Name of school
   - Full name of student
   - Date of birth
   - Name of parent(s)/guardian(s)
   - Date of entry into the school
   - Name of school previously attended
   - Subjects taken
   - Grades received
   - Credits earned
   - Attendance
   - Date of withdrawal from school
   - Additional information designated in district student records policy.

3. Provide for the retention of Permanent Records in a minimum one-hour fire-safe place in the school, the district or education service district office, or for keeping duplicate Permanent Records in a safe depository outside the building.

4. Provide for transferring student Progress Records to another educational institution upon receipt of notice of enrollment.

5. Provide for transferring Behavioral Records to another education institution only upon request of the student's parent(s), guardian(s), or the student if age 18 or older.

PARENT RIGHTS

Right to Inspect and Review Student Records: The school district must allow a parent to inspect all student records regarding the student. The parent has the right to obtain copies of the records; the district may charge a fee for copies provided that the fee does not effectively prevent the parent from exercising the right to inspect and review records (45 CFR Part 99.8 and Part 121a.566, OAR 581-15-075). The parent also has the right to a response from the district when making a reasonable request for interpretations of the records (45 CFR Part 99.11 and Part 121a.566, OAR 581-15-075). ORS 336.195 requires that Behavioral Records be released to the parent only in the presence of someone who is qualified to interpret the records. Access must be granted without unnecessary delay and in no case more than 45 days after the request has been made (45 CFR Part 121a.562 and Part 99.11). Access must be granted prior to any IEP meeting or hearing relating to the identification, evaluation, or placement of the child (45 CFR Part 121a.562). The parent of a handicapped student also has the right to have a representative inspect and review the records (45 CFR Part 121a.562, OAR 581-15-075).

Right to a List of Types and Locations of Information: On request, the district must provide the parent of a handicapped student with a list of the types and locations of education records collected, maintained, or used by the district (45 CFR Part 121a.565, OAR 581-15-075).

Right to Request the Amendment of Student Records: The parent may request that an amendment be made in the student's educational records if there is reasonable cause to believe that the records are inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. If the district refuses, it must notify the parent within a reasonable length of time, not to exceed 30 days, and advise the parent of the parent's right to a hearing (45 CFR Part 99.20 and Part 121a.567, OAR 581-15-075).

Right to Request a Hearing to Challenge Information in the Student's Records: The parent has the right to request a hearing to challenge information in the student's records (45 CFR Part 99.20 and Part 121a.567, OAR 581-15-075). The hearing is conducted in accordance with 45 CFR Part 99.22:

1. The hearing is held within a reasonable length of time after the school district receives the request and the parent is given prior notice of the date, place and time for the hearing.

2. The hearing may be conducted by any party, including a district official who does not have a direct interest in the outcome of the hearing.

3. The parent is afforded full opportunity to present evidence and may be represented by individuals, including an attorney.

4. The district makes its decision in writing within a reasonable length of time following the hearing.

5. The decision is based solely on evidence presented at the hearing and includes a summary of evidence, and the reasons for the decision.

Should the district decide that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the district amends the records accordingly and informs the parent in writing (45 CFR Part 99.21 and Part 121a.569). Should the district decide that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the district informs the parent of the right to place a statement in the records regarding information in the records or setting forth reasons for disagreeing with the decision of the district. Any such explanation is maintained as part of the record as long as the record or contested portion is maintained. If the record or contested portion is disclosed by the district, then the explanation also is disclosed (45 CFR Part 99.21 and Part 121a.569).

Right to Annual Notification of Rights: Each year the district must notify the parent of rights guaranteed by the Buckley Amendment (45 CFR Part 99.6), where copies of the district's policy on student records may be obtained, and the right to file a complaint with the U.S. Office of Education should the parent believe that requirements on records are not being observed. When the parent's language is other than English, the district must notify the parent in a manner that the parent can understand.

Right to Refuse Consent for the Disclosure of Personally Identifiable Information: The parent of a handicapped student has the right to refuse consent for the disclosure of personally identifiable information to anyone other than school officials or individuals acting in an official capacity for the district (OAR 581-15-075).

Right to Refuse Consent for the Use of Personally Identifiable Information: The parent of a handicapped student has the right to refuse consent for the use of personally identifiable information for any purpose other than identification, preplacement or annual evaluation, individualized educational plan, educational placement or the provision of a free appropriate public education (OAR 581-15-075).

Right to Request the Destruction of Student Records: The parent of a handicapped student has the right to request the destruction of personally identifiable information when it is determined that such information is no longer needed to provide educational services to the student (45 CFR Part 121a.573, OAR 581-15-075). However, the permanent record must be retained indefinitely (OAR 581-22-717). NOTE: Check with the State Archivist to determine the latest schedule for the retention and destruction of nonpermanent student records (see page 12, question 6).

Right to Refuse to Permit Designation of Directory Information: The parent has the right to refuse to permit the district from disclosing any or all categories of directory information with respect to the parent's child.

STUDENT RIGHTS

When a student reaches the age of 18, or is attending an institution of postsecondary education, the rights accorded to and the consent required of the parent are transferred to the student, except when the type or severity of handicapping condition is determined to preclude the granting of such rights. In such a case, the rights are maintained by the parent (45 CFR Part 99.4 and Part 121a.574).

Information may be disclosed to the parent of an adult student (ages 18 through 23) when the student is legally dependent on the parent for the purposes of reporting income tax (45 CFR Part 99.31).

MAINTENANCE OF STUDENT RECORDS

One official of the district must assume responsibility for insuring the confidentiality of any personally identifiable information (45 CFR Part 121a.572).

All persons collecting or using personally identifiable information must receive training or instruction regarding Oregon's policies and procedures to insure the confidentiality of special education records under Oregon's annual program plan and the Buckley Amendment (45 CFR Part 121a.572).

The district must maintain for public inspection, a current listing of the names and positions of school officials who may have access to personally identifiable information (45 CFR Part 121a.572).

DISCLOSURE OF STUDENT RECORDS

Disclosure Requiring Written Consent of the Parent (45 CFR Part 99.30)

1. The district obtains written consent from the parent before disclosing personally identifiable information, except as allowed by circumstances described under "Disclosure Not Requiring Written Consent of the Parent" below.

2. Whenever written consent is required, the district may presume that the parent of the student or the eligible student has the authority to do so unless the district has been provided with evidence that there is a legally binding instrument, statute or court order governing such matters as divorce, separation or custody, which provides to the contrary.

3. When disclosure is made, the district, upon request, provides a copy of the record to the parent, and to the student if requested by the parent.

Except for directory information, a district may disclose personally identifiable information only if the party receiving the information agrees not to disclose such information to any other party without the written consent of the parent. The district must inform the party receiving the information of this requirement (45 CFR Part 99.33). However, when the district discloses personally identifiable information to parties under conditions not requiring consent, this could be done with the understanding that the information may be redisclosed to other parties without consent under the conditions outlined below.

Disclosure Not Requiring Written Consent of the Parent (45 CFR Part 99.31)

The district may disclose personally identifiable information without the written consent of the parent under the conditions below. However, the district must include a statement in the district's policy on student records covering such disclosures (45 CFR Part 99.5). (See "STUDENT RECORDS POLICY," item 3, page 3.)

1. **Disclosure of Records Within the District** The district may disclose personally identifiable information to other school officials, including teachers, within the district when there is a legitimate educational interest (45 CFR Part 99.31). However, Behavioral Records may be released to staff members only if they are qualified to interpret them, or if they are in the presence of someone who is qualified to interpret them (ORS 336.195).

2. **Disclosure of Records to Other Districts (45 CFR Part 99.31 and Part 99.34, OAR 581-22-717)** Records, except Behavioral Records, may be transferred to another district without the parent's consent when the district receives notice that the student has enrolled in that district. However, the district must make a reasonable attempt to notify the parent of the transfer at the last known address of the parent, unless the transfer was initiated by the parent or unless the district includes a notice in its student records policies and procedures that, upon request, it forwards student records to a district in which a student has or intends to enroll. The parent has the right to receive a copy of the record upon request; and the parent has the right to a hearing to challenge the content of the record. Behavioral Records may be transferred *only* upon the request of the parent.

3. **Disclosure of Records to Authorized Representatives of Federal or State Officials** Student records may be disclosed without the parent's consent to the U.S. Comptroller General, the Secretary of HEW, the Commissioner of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, or the Oregon Department of Education in connection with an audit or evaluation of a federally funded program or the enforcement of compliance with the requirements of such programs (45 CFR Part 99.31 and Part 99.35). A record of disclosures to any of the above must be maintained according to requirements outlined under "RECORD OF DISCLOSURES," page 8. Unless the parent's consent has been obtained or unless the collection of personally identifiable information is specifically authorized by federal statute, any data collected by the officials listed above must be protected in a way that will not permit personal identification of the student or the parent by other than those officials. Personally identifiable information which is collected must be destroyed when it is no longer needed for audit, evaluation or compliance requirements (45 CFR Part 99.35).

4. **Disclosure of Records in Connection with Financial Aid for Which a Student Has Applied or Which a Student Has Received** Disclosure may be made without the parent's consent provided that personally identifiable information from the records of the student may be disclosed only as may be necessary to: a) determine the eligibility of the student for financial aid; b) determine the amount of financial aid; c) determine the conditions governing financial aid; or d) enforce the terms or conditions of the financial aid.

5. **Disclosure of Records to Organizations Conducting Studies** Disclosure may be made without the parent's consent to organizations which conduct studies for educational agencies or institutions. Studies may involve activities to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction. Studies must be conducted in such a manner that the personal identification of the student or the parent is made available only to representatives of the organization. Information must be destroyed once the study is completed. The term "organizations" includes, but is not limited to, federal, state and local agencies, and independent organizations.

6. **Disclosure of Records to Accrediting Organizations** Records may be disclosed to accrediting organizations without the parent's consent in order to carry out accrediting functions.

7. **Disclosure of Records to Comply With a Judicial Order or Subpoena** Records may be disclosed by court order or subpoena. However, a reasonable *effort* must be made to notify the parent enough in advance of the release to permit a proper challenge to the court order or subpoena. NOTE: Personal delivery of behavioral records should be made by a staff member who is qualified to interpret them. A record of disclosure must be maintained. (See "RECORD OF DISCLOSURES," page 8.)

8. **Disclosure of Records in Emergencies** Information may be disclosed if the disclosure of data is necessary to protect the health or safety of the student or others. *Caution:* The threat to health or safety must be serious; the information must be necessary, not just convenient to meet the emergency; the parties receiving the information must be the ones who are responsible for handling the emergency; time must be of the essence such that the parent could not be reached to obtain consent. A record of disclosure must be maintained.

9. **Disclosure of Directory Information** The district may disclose personally identifiable information which has been designated as directory information by the district (45 CFR Part 99.36). Information may include: student's name, address, telephone number, date and place of birth, institutions or educational agencies attended, dates of attendance, area of study, degrees and awards received, most recently attended institution or agency, participation in officially recognized sports, weight and height of members of athletic teams, and other similar information as designated by the district (45 CFR Part 99.3). If the district chooses to designate directory information, it must give public notice of: 1) the categories it considers to be directory information, 2) the right of the parent to refuse to permit the designation of any or all categories identified by the district with respect to the parent's child, and 3) the period of time within which the parent must inform the school district in writing that any or all categories of directory information are not to be disclosed for the parent's child (45 CFR Part 99.37). The district may disclose directory information on a student who is no longer enrolled in the district without following the above procedures (45 CFR Part 99.37).

10. **Disclosure of Records of Adult Student (ages 18 through 23) to the Parent** Although the parent's rights may transfer to the student at the age of 18 (see "STUDENT RIGHTS," page 5), records may be disclosed to the parent of an adult student without consent when the student is legally dependent on the parent for the purposes of reporting income tax (45 CFR Part 99.31).

RECORD OF DISCLOSURES

The district must keep a record of parties requesting or obtaining access to a student's records. The record of disclosures should be kept with but not as a part of the student's records and should include the name of the party, the date access was granted, and the purpose for which the party requested or was authorized to use the records (45 CFR Part 99.32, and Part 121a.563). See sample form, "RECORD OF REQUEST FOR OR DISCLOSURE OF STUDENT RECORDS," page 16. This requirement does not apply to directory information, or disclosures to a parent, disclosures to an authorized school employee, or disclosures pursuant to the written consent of a parent.

The record of access may be inspected only by the parent, the school official and assistants responsible for custody of the records, and authorized persons responsible for auditing district recordkeeping procedures (45 CFR Part 99.32).

The record of access is maintained as long as the record to which it pertains is maintained (45 CFR Part 99.13).

DESTRUCTION OF STUDENT RECORDS

The district may not destroy any student records if there is an outstanding request to inspect and review them (45 CFR Part 99.13). The parent must be informed when special education records which pertain to the student are no longer needed to provide special education services. Such records must be destroyed upon the parent's request (45 CFR Part 121a.573), although the student's Permanent Record must be maintained indefinitely (OAR 581-22-717). In informing the parent about the right to request destruction of the student's records, it is suggested that the district remind them that the records may be needed for the purposes of claiming social security or other benefits (CFR Comment: Part 121a.573).

CONFIDENTIALITY OF STUDENT RECORDS

CHECKLIST OF REQUIREMENTS

The following is a checklist of confidentiality requirements which apply to all student records. Each requirement is referenced according to its statutory authority as well as its location by page number in this paper. It should be noted that forms which are required by federal and state special education laws and regulations are provided as samples in the paper and referenced below.

Confidentiality Requirement	Required By: Buckley Amendment	PL 94-142	Oregon Statute or Rule	Reference this paper
1. Adopt student records policy to include:	Part 99.5	not required	OAR 581-22-717	Page 3
Procedure to annually inform parents of their rights under the Buckley Amendment	Part 99.5	not required	not required	Page 3
Procedure to be followed by a parent who requests to inspect and review records	Part 99.5	Part 121a.562	OAR 581-15-055	Page 3
Description of the circumstances in which the district may deny a request for a copy of a student's records	Part 99.5	not required	not required	Page 3
Fee schedule for copies	Part 99.5	not required	not required	Pages 3, 4, 13
List of types and locations of education records maintained	Part 99.5	Part 121a.565	OAR 581-15-075 OAR 581-15-055	Pages 3, 4
The title and address (i.e., location of the school official responsible for insuring the confidentiality of personally identifiable information)	Part 99.5	Part 121a.572	OAR 581-15-055	Page 3
Requirement for written consent of parent prior to release of student records except as permitted under 45 CFR Part 99.31 and Part 99.37 of the Buckley Amendment	Part 99.5 Part 99.30	Part 121a.571	OAR 581-15-075 OAR 581-15-055	Pages 3, 6
Statement of categories of student record information which the district will disclose under 45 CFR Part 99.31 without written consent of parent	Part 99.5 Part 99.31	not required	not required	Pages 3, 6

	Criteria for determining which parties are "school officials"	Part 99.5	not required	not required	Page 3
	What the district considers to be a "legitimate educational interest"	Part 99.5	not required	not required	Page 3
	Specification of what information is designated as directory information under 45 CFR Part 99.37	Part 99.5 Part 99.37	not required	not required	Pages 3, 7
	Record of disclosure	Part 99.32	Part 121a.563	OAR 581-15-055	Pages 8, 16 (sample form)
	Opportunity for parent to seek correction of student records through a request to amend the records or a hearing	Part 99.20	Part 121a.569	OAR 581-15-075 OAR 581-15-055	Pages 3, 4
	Right of the parent to place a statement of disagreement or explanation in the student record	Part 99.21	Part 121a.569	OAR 581-15-055	Pages 3, 5
	Maintenance of permanent student records	not required	Part 121a.573	OAR 581-22-717 OAR 581-15-055	Page 3
	Retention of Permanent Records in a one-hour fire-safe place in the school, the district, or an education service district office, or retention of duplicate Permanent Records in a depository outside the building	not required	not required	OAR 581-22-717	Page 4
	Provision for transfer of Progress Records to another educational institution upon receipt of notice of enrollment	not required	not required	OAR 581-22-717	Page 4
	Provision for transferring Behavioral Records to another educational institution only upon request of the student's parent, guardian, or eligible student	not required	not required	OAR 581-22-717	Page 4
2.	Maintain list of names and positions of district employees who may have access to personally identifiable information	not required	Part 121a.572	OAR 581-15-055	Pages 5, 17 (sample form)

3.	Train district personnel who collect or use personally identifiable information	not required	Part 121a.572	OAR 581-15-055	Page 5
4.	Appoint one district official to assume responsibility for confidentiality of personally identifiable information	not required	Part 121a.572	OAR 581-15-055	Page 5
5.	Adopt hearing procedures	Part 99.22	Part 121a.570	OAR 581-15-055	Page 4
6.	Inform parent when student records are no longer needed	not required	Part 121a.573	OAR 581-15-055	Pages 8, 15 (sample form)

QUESTIONS AND ANSWERS

CONFIDENTIALITY OF SPECIAL EDUCATION RECORDS

1. *If a teacher verbally discloses information from the teacher's personal notes on a student, does this information become a part of the student's records?*
   Yes. If information is communicated either orally or in writing to anyone other than a substitute teacher, it becomes part of the student's records.

2. *If some information from a teacher's personal notes on a student is shared with others, does that make all information in those notes on the student subject to review by the parent?*
   No. Only that information which was communicated or is directly related to it becomes part of the student's records.

3. *What information from the records may a teacher share with the student?*
   This is a matter of discretion or district policy. It depends in part upon the age and ability of the student. Sound educational policy would say that the student should see such standard information as grades, scores on vocational interest tests or other tests used by counselors to help the student select courses.

4. *Can information from a student's Progress Record be communicated by telephone to a district to which a student has transferred?*
   Yes. This may be done without consent of the parent. (45 CFR Part 99.31, OAR 581-22-717) However, the district releasing the information should verify the caller's identity and right to the information (e.g., call party back at the verified phone number). The district releasing information must make a reasonable attempt to notify the parent of the disclosure at the parent's last known address, unless: 1) the disclosure of records is initiated by the parent, or 2) the district includes a notice in its policies and procedures stating that the district forwards Progress Records on request to a district where a student has or intends to enroll. (45 CFR Part 99.34)

5. *May information from a student's Behavioral Records be communicated by telephone to a district where a student has transferred?*
   No. Behavioral Records may be forwarded once parents have given permission. The information in the behavioral record must be disclosed in the presence of a school official qualified to interpret Behavioral Records.

6. *How long should special education records be maintained by the district after the student transfers, graduates or leaves the special education program?*
   According to PL 94-142 (45 CFR Part 121a.573), the district must inform the parent when special education records are no longer needed to provide educational services. (See sample form, "Destruction of Information," page 15.) At the parent's request, this information must be destroyed. Once the requirement to notify the parent has been met, it appears that records could be destroyed even if the parent does not request that the records be destroyed.

7. *How does a district determine when special education records are "no longer needed to provide educational services to the child?"*
   The law is not clear on this point; at the present time, there is no operational definition. Therefore, the district is encouraged to include in its policy on student records a definition or set of guidelines for determining when records are no longer needed. Such a policy must be consistent with the destruction schedule established by the State Archivist. (See Appendix C.)

8. *May fees be charged to the parent for copies of educational records?*
   Yes. Provided that the fee does not effectively prevent the parent from exercising the right to inspect and review those records.

9. *Can a surrogate parent release student records?*

The surrogate parent may have access to student records for the purpose of carrying out duties as a surrogate parent. A surrogate parent may release student records to a third party.

10. *Who can provide consent for the release of a handicapped student's records when the student has been assigned a surrogate parent?*
The legal guardian or an individual having the written power of attorney to act on behalf of the legal guardian has the authority to release records of the student.

11. *When parents are separated or divorced, who has the right to access to records and the right to exercise parental consent?*
The school may presume that either parent has authority to inspect and to grant consent for release of records unless the district has been provided with evidence that one parent does not have the authority under state statute or court order governing such matters as divorce, separation, or custody (45 CFR Part 99.3). The evidence must be in the form of a legally binding document, and it is the responsibility of the parent(s) to provide such evidence.

12. *How does the district maintain confidentiality with regard to who has had access to a student's records?*
This presents a special problem, since under the Buckley Amendment the record of disclosure is required to be kept with the student's records. At the same time, the record of disclosure is to be inspected only by: the parent, the school official and assistants who act as custodians of the records, and, for the purpose of auditing district recordkeeping procedures, parties authorized to audit district recordkeeping procedures. Requiring an individual who views the records to sign a record of disclosure form that includes the names of those who have previously gained access appears to be in violation of this requirement. One way of meeting the requirement is to document each disclosure on a separate form and to keep all forms with the student's records. The records can be stored in an envelope marked: "RECORD OF DISCLOSURE: To be inspected only by the parent or eligible student, the school official and assistants who act as custodians of the records, and, for the purpose of auditing district recordkeeping procedures, parties authorized to audit district recordkeeping procedures." (See sample form "RECORD OF REQUEST FOR OR DISCLOSURE OF STUDENT RECORDS," page 16.)

NOTE: It is recommended that parental consent forms authorizing release of student records also be maintained in this special envelope.

13. *Is the IEP a progress or a behavioral record?*
The IEP is either a Progress Record or a Behavioral Record depending on what the district includes as part of the IEP. The IEP is a Behavioral Record if it includes results of intelligence or personality evaluations, records of conversations or any written transcript of incidents relating specifically to student behavior. The IEP can be a part of the Progress Record if it does not include any of the above. NOTE: It is recommended that each district adopt a policy stating whether the IEP and other special education records are to be treated as Progress Records or Behavioral Records.

14. *At what age do students, including the handicapped, have legal confidentiality rights guaranteed under the Buckley Amendment? (See "PARENT RIGHTS," page 4.)*
According to the Buckley Amendment, the rights accorded to the parent transfer to the student at the age of 18. NOTE: The district has the option of extending access rights to the parent until the student reaches the age of 23, as long as the student is dependent for tax reporting purposes.

15. *What rights do the parent or surrogate parent have regarding student records for students between the ages of 18 and 21?*
The parent or surrogate parent of a student between the ages of 18 and 21 has the right to access records for purposes of representing the student in all matters relating to the identification, evaluation, and educational placement of the student, and the provision of a free appropriate education.

16. *Does the school practice of providing parents/guardians a letter of behavioral write-up by having a student hand carry it home rather than by sending it through the U.S. mail violate the confidentiality of student records?*
Neither practice complies with Oregon law pertaining to student records set forth in ORS 336.185 through 336.215. According to ORS 336.195(2), student behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records. Such a letter should be assumed to be a "student behavioral record" rather than a "student progress record." Whether the letter is mailed or hand carried, it should be released in the "presence of an individual qualified to explain or interpret the records." The practice of sending a letter to the parents/guardians asking them to contact the school is preferable.

17. *May a school district exclude a student from school attendance on a temporary basis?*
Yes, if the conduct of the child constitutes an imminent danger to the health and safety of the child or others, the child may be excluded. Pregnant students may not be excluded solely on the basis of pregnancy.

School District
Address
City, Oregon ZIP
(503) Phone

DESTRUCTION OF INFORMATION
(as required by PL 94-142, 45 CFR Part 121a.573, and OAR 581-22-717)

Dear _____

The school district would like to inform you that the following personally identifiable information which has been collected, maintained, or used for special education services to your child is no longer needed to provide special educational services: _____

_____

_____

_____

_____

You have the right to request that this information be destroyed, except for Permanent Record information which must be retained by the school district and which includes the following information according to Oregon Administrative Rule 581-22-717:

1. Name of school
2. Full name of student
3. Date of birth
4. Name of parent(s)/guardian(s)
5. Date of entry into the school
6. Name of school previously attended
7. Subject taken
8. Grades received
9. Credits earned
10. Attendance
11. Date of withdrawal from school
12. (Additional information designated in district student record policy)

Although destruction of records is the best protection against improper and unauthorized disclosures, you should be aware that some records may be needed by you or your child for social security benefits or other purposes.

Sincerely,

_____ _____

Name/Title Date

School District
Address
City, Oregon ZIP
(503) Phone

RECORD OF REQUEST FOR OR DISCLOSURE OF STUDENT RECORDS
(as required by PL 94-142, 45 CFR Part 121a.563, and Family Educational Rights and Privacy Act (Buckley Amendment), Part 99.32)

Student's Full Name _____ Date of Birth _____

As required by law, the school district maintains a record of all requests for and disclosures of personally identifiable information from the educational records of each student. The information below must be completed except for disclosures to a parent or eligible student, requests by or disclosures to an authorized school employee, disclosures pursuant to the written consent of a parent or eligible student, or requests for or disclosures of directory information.

Party Requesting or Obtaining Information _____ Date Access Granted _____

Legitimate Interest/Purpose of Party in Requesting or Obtaining Information _____

NOTE: According to the Family Education Rights and Privacy Act, this record of disclosure may be inspected only by: a) the parent of the student, b) an eligible student, c) the school official and assistants who act as custodians of the records, and d) by authorized parties who are responsible for auditing recordkeeping procedures of the district.

School District
Address
City, Oregon ZIP
(503) Phone

SCHOOL OFFICIALS HAVING ACCESS TO STUDENT RECORDS
(as required by PL 94-142, 45 CFR Part 121a.572)

_____
School Year

Following is a current list of the names and positions of those school officials (including teachers) in the district who, because of their legitimate educational interest, may have access to personally identifiable information without consent from the parent, legal guardian, or eligible student. As required by the Buckley Amendment (45 CFR Part 99.5), the school district student records policy specifies the criteria for determining which parties are "school officials" and what the district considers to be "a legitimate educational interest."

NOTE: The requirement to maintain a record of parties requesting or gaining access to a student's records does not apply to the following persons.

NAME	POSITION	NAME	POSITION

Persons other than those listed above who requested or gained access should be recorded in the following manner:

> Name of student, date of birth, person accessing the record, their title or position and the date of access. In order to ensure the confidentiality of this information, each request should be listed on a separate sheet of paper and placed in an envelope. This envelope should be kept in a file marked "Student Records Accessed" and kept in proximity to student records. Each name of person accessing the record previously would not be viewed by those who follow.

Oregon Administrative Rules - State Archivist

Including
General Records Retention Schedule for the Public Schools of Oregon

Archives Division
1005 Broadway NE
Salem, Oregon 97310
(503) 378-4241
November 1988

Division 5

Policy, Purpose, and Definitions

Policy

166-05-000 Adequate documentation of the policies and activities of the state and its political subdivisions is essential to insure continuation of government and open, efficient conduct of the public's business. Creation of such documentation is the responsibility of every public official and agency. However, after the passage of time, much of the necessary documentation has no further value to the state or its citizens, and some of it is duplicated in other offices of the state and its political subdivisions. Prompt disposal of such valueless documentation is essential to reduce costs. Preservation and management of that documentation which has continuing value for the administration of government, as evidence of legal rights and responsibilities of the state and its citizens, and for research purposes of all kinds is essential.

Note: Unlawful destruction of any public record is a crime punishable under the provisions of ORS 162.305.

Purpose

166-05-005 The purpose of these rules is to implement the provisions of ORS 192.005 to 192.170, and 357.825 to 357.895 by providing procedures for the orderly retention and destruction of public records, including procedures for obtaining lawful authority to destroy, or otherwise dispose of public records.

Definitions for Division 10 through Division 40

166-05-010 As used in these rules, "photocopy", "political subdivision", "public record", "public writings", and "state agency" are defined by ORS 192.005. As used in these rules unless otherwise required by context:

(1) "Archivist" means the State Archivist who serves under the Secretary of State and who administers the Archives Division which operates the State Archives, the State Records Center, and the Security Copy Depository.

(2) "Agency" when used alone means either a state agency or a political subdivision.

(3) "Local agency" means any officer, department, board, commission, or institution created by or under the jurisdiction of a political subdivision of this state.

(4) "Exempt records" are documents which can be destroyed under ORS 192.170.

(5) "Excluded records" are materials which are excluded from the definition of public records by ORS 192.005(5).

(6) "Permanent" public records are those deemed worthy of permanent preservation for legal, administrative, or research purposes.

(7) "Retention schedule" means either a General Schedule published by the State Archivist in the OAR in which certain common public records are described or listed by title and a minimum retention period is established for each; or a Special Schedule approved by the State Archivist for the public records of a specific agency.

(8) "Retention period" means the minimum length of time a public record must be retained as authorized by an applicable General or Special Schedule.

Division 10

State Archives, State Records Center, and Security Copy Depository Services

General

166-10-000 The Archives Division, Office of the Secretary of State, is administered by the State Archivist. The State Archives provides storage for permanently valuable public records and access to those records which are in the official custody of the State Archivist. The State Records Center provides storage and retrieval service for inactive records of state agencies. The Archives Division also provides advice and assistance to state and local agencies, microfilm services to any state or local agency, and storage and retrieval service for security copy microfilm from any state or local agency in the Security Copy Depository.

Custody of Records

166-10-006 The Archives Division accepts public records under the following conditions:

(1) The State Archives may accept public records which are placed in the official custody of the State Archivist in accordance with ORS 357.825 or 357.835. Public records in the State Archives are available for public use in the Archives insofar as their use is not restricted by law. No public records in the official custody of the State Archivist will be loaned for use outside the Archives.

(2) The State Records Center may accept inactive public records from state agencies for storage, but official custody of the records remains with the state agency from which they were received or its legal successor.

(3) The Security Copy Depository may accept silver gelatin security microfilm of public records from state and local agencies. Public records deposited in the Security Copy Depository remain in the official custody of the agency from which they were received.

(4) Except as otherwise provided by ORS 357.835(2), official custody of all records of a state agency which is abolished or ceases to operate shall pass to the State Archivist.

Access to Records (State Archives)

166-10-010 Public records in the State Archives are available for use under the following conditions:

(1) Patrons shall use public records in designated search rooms, observing the rules of the search room (OAR 166-10-015).

(2) Fees and costs shall be charged for staff research and technical labor, copies and copying, and certification services. A list of these fees and costs is available upon request.

Basic Rules of the Search Room

166-10-015 Patrons shall observe the following rules for the protection and control of public records:

(1) Patrons shall register and may be required to furnish identification to use public records in the State Archives.

(2) Patrons shall obtain written permission from the state or local agency, or its successor, which placed the public records in the official custody of the State Archivist in order to use public records restricted by law.

(3) Patrons shall only use a pencil when making notations, shall not mark public records, and shall maintain the original order of the public records consulted.

(4) No person shall smoke, drink, or eat in the search room.

(5) Patrons shall notify the staff when their work is completed.

(6) Patrons shall not remove from the search room public records or other materials in the official custody of the State Archivist.

(7) Patrons shall not alter, mutilate, or otherwise deface public records.

Access to Records (State Records Center)

166-10-025 Public records in the State Records Center may be loaned or returned to the state agency which holds official custody of the public records under the following conditions:

(1) Requests from state agencies for public records or information may be made by telephone or by mail.

(2) Deliveries to state agencies of public records as requested will be made as follows:

(a) Deliveries will be made through the Central Mail Service of the Department of General Services to state agencies served by that Department.

(b) Postal service will be used for deliveries to state agencies which are not served by the Central Mail Service.

(3) A state agency may request or authorize the loan or return of public records in its official custody from the State Records Center as follows:

(a) Loans of individual files or boxes may be made and a follow-up system for loaned public records will be observed.

(b) All requests for loan or return of public records in the State Records Center must originate from the state agency which has official custody of the public records.

(c) A state agency must authorize the State Records Center in writing to loan or transfer public records in its official custody to another agency.

Deposit Procedures (State Archives, State Records Center, Security Copy Depository)

166-10-030 Prior approval is required to deposit public records in the State Archives, the State Records Center, and the Security Copy Depository. These deposits will be effected according to procedures, criteria, and standards established by the State Archivist which are available on request.

Microfilming Service

166-10-035 The Archives Division provides microfilming services at cost as authorized by ORS 192.072. A list of these services and their cost is available upon request.

Access to Records (Security Copy Depository)

166-10-040 The Archives Division provides, without charge thereof, controlled-environment storage for security copy silver gelatin microfilm for all state or local agencies, in accordance with ORS 192.070.

(1) No use of or access to security copies will be permitted except to make inspections required to insure preservation or to produce a duplicate copy for use of the depositing state or local agency.

(2) All requests for inspection, copying, or return of public records in the Security Copy Depository must originate from the state or local agency which has official custody of the public records.

(3) A state or local agency must authorize the Security Copy Depository in writing to loan or transfer public records in its official custody to another state or local agency.

Division 20

The Protection and Storage of Public Records

Purpose

166-20-005 This Division defines storage and conditions which are acceptable for the use, storage, and protection of public records in Oregon.

Terms of Official Custody

166-20-010 The term "public records" as used in statutes and rules pertaining to disposition of public records means records which are the property of the public. Alienation of public records is prohibited by public policy and statute. Custodians of public records are specifically charged by statute with the responsibility of protecting them, and, except as expressly provided by statute, furnishing reasonable opportunities for inspection and examination of them by any person:

(1) State and local agencies are responsible for public records in their official custody, wherever deposited, until the public records have been transferred to the official custody of the State Archivist or otherwise disposed of as authorized by law, an applicable General Schedule published in these rules, or a Special Schedule.

(2) When a state agency is abolished or ceases to operate, its public records shall be deposited in the official custody of the State Archivist, except as otherwise provided by ORS 357.835(2).

(3) Public records deposited in the State Records Center or Security Copy Depository remain in the official custody of the agency which deposited them.

Storage Area Standards

166-20-015 Safe storage of records requires compliance with the following standards:

(1) Public records should be stored in fire-resistant structures and in areas in which the temperature and humidity are maintained at the levels required to insure optimum longevity of the paper, film, or tape on which they are recorded. Adequate light and access should be provided to permit retrieval of public records. Adequate ventilation and protection against insect or mold invasion should be provided. Steam, water, and sewer pipes, other than fire-control sprinkler systems, pose extreme hazard to records. No public records of enduring value should be stored where heat, breaks, drips, or condensation from pipes could damage them; where windows, doors, walls, or roofs are likely to admit moisture; or where they will be exposed to sunlight or extreme temperature variations.

(2) Aisle space in public records storage areas should be kept free of obstruction, and no public records should be stacked or piled directly on the floor of any storage area. All public records should be shelved above initial flood level of any bursting pipe, leaky roof, sprinkler system, or other source of water.

Return of Active Records (State Records Center)

166-20-030 When public records deposited in the State Records Center become administratively active to the extent that it is impracticable to retain them in the State Records Center, the public records may be returned to the state agency which holds official custody of the public records.

Requisition of Records

166-20-035 When the State Archivist has determined that public records, no longer required for the discharge of duties by the official custodian, are stored where they are no longer available for use or in conditions which endanger the public records, he shall requisition them for transfer to his custody if they are of value for legal, administrative, or research purposes.

Machine Readable Records

166-20-050 Machine readable public records must be prepared and stored according to National Bureau of Standards guidelines. Public records for which permanent retention is required must be produced in the English language on paper or silver gelatin microfilm according to the requirements in OAR 166-30-070. Production of permanent cumulative records on at least an annual schedule is required.

Division 30

Records Management Procedures

General

166-30-005 These regulations prescribe procedures for obtaining lawful authority to destroy or otherwise dispose of public records and specify procedures for such authorized disposition. They apply to all public records created and stored by state or local agencies.

Appointment of Records Officer

166-30-016 To establish a records management program to insure orderly retention and destruction of all public records, and to insure the preservation of public records of value, each state or local agency should designate a Records Officer to organize and coordinate records scheduling, retirement, storage, and destruction. The State Archivist will provide training and assistance for Records Officers.

Inventory and Appraisal (State Agencies)

166-30-021 To insure accurate identification and evaluation of its records, each state agency will, with the advice and assistance of the State Archivist, prepare a comprehensive inventory of all of the public records of each of its organizational units, including the records of any other agency in its official custody. Each public record will be identified and described on a separate form provided by the State Archivist.

Public Records Destruction Authorizations (State Agencies)

166-30-026 Authorization for destruction of public records by state agencies must be obtained as follows:

(1) No authorization is required to destroy materials which are excluded or exempt by statute from the definition of public records. (ORS 192.005(5), ORS 192.170)

(2) If any of the public records identified during the comprehensive inventory (OAR 166-30-021) are listed in an applicable General Schedule, the agency may destroy any public records from such series which have been retained longer than the minimum period specified.

(3) A completed "Record Series Inventory Worksheet" for each public record being scheduled shall be sent to the State Archivist for review. When the Record Series Inventory Worksheets have been completed to the satisfaction of the State Archivist for the public records in each of the state agency's organizational units and public records in its official custody, the State Archivist will prepare a Special Schedule. The State Archivist will return the Special Schedule to the agency for the signature of the agency head or designated signatory. The signed schedule, in duplicate, shall then be returned to the State Archivist for approval. Public records for which retention periods have been established by rule shall appear on these schedules to facilitate comprehensive records scheduling. A retention period established by a Special Schedule shall supersede a retention period on an applicable General Schedule established by rule, insofar as it applies to the same public record.

(4) A Special Schedule approved by the State Archivist, or an applicable General Schedule published in these rules, is an authorization for a state agency to destroy listed public records which have met the minimum retention period, subject to the prior audit requirements of OAR 166-30-041 and any suspension ordered under the provisions of OAR 166-30-045. Unless otherwise stated, a retention period is calculated from the date the public record was created.

(5) Special Schedules approved after January 1, 1987, will have an expiration date set by the State Archivist.

Public Records Destruction Authorizations (Local Agencies)

166-30-027 Authorization for destruction of public records by local agencies must be obtained as follows:

(1) No authorization is required to destroy materials which are excluded or exempt by statute from the definition of public records. (ORS 192.005(5), ORS 192.170)

(2) A Special Schedule approved by the State Archivist, or an applicable General Schedule published in these rules, is an authorization for a local agency to destroy listed public records which have met the minimum retention period, subject to the prior audit requirements of OAR 166-30-041 and any suspension ordered under the provisions of OAR 166-30-045. Unless otherwise stated, a retention period is calculated from the date the public record was created.

(3) Notwithstanding any retention period listed in a General Schedule, no public record created in or prior to 1920 shall be destroyed without the express written permission of the State Archivist.

(4) Specific approval from the State Archivist by means of a Special Schedule is required to dispose of public records which are not listed in an applicable General Schedule found in these rules. A completed "Record Series Inventory Worksheet" for each public record being scheduled shall be sent to the State Archivist for review. When the Record

Series Inventory Worksheet has been completed to the satisfaction of the State Archivist, the State Archivist will prepare a Special Schedule which includes each public record inventoried. The State Archivist will return the Special Schedule to the local agency for review and for the signature of the agency head or designated signatory. The signed schedule, in duplicate, shall then be returned to the State Archivist for approval.

(5) A Special Schedule approved for an individual local agency shall supersede an applicable General Schedule, insofar as it applies to the same public record.

(6) Special Schedules approved after January 1, 1987, will have an expiration date set by the State Archivist.

Prior Audit of Fiscal Public Records Required

166-30-041 No public records of fiscal transactions shall be destroyed, even though the required minimum retention period has passed, until after the required audit for the period covered by the public records has been completed and the auditor has released the public records for destruction. If federal funds are involved, requirements of the United States Government must be observed if they require longer retention than the state. Computer tape and disc public records of fiscal transactions must be retained until after audit even though paper or microfilm printouts of the public records exist, unless the responsible auditor approves earlier disposal of them.

Suspension of Scheduled Public Records Destruction

166-30-045 Upon receipt of a request from the Attorney General or a District Attorney, or upon receipt of a court order, the State Archivist will immediately suspend scheduled destruction of public records until further notice. Suspensions may also be ordered, or authorizations be cancelled, for other reasons such as accidental loss of a duplicative public record or governmental reorganizations which change the value of particular public record. Notice of any such suspension or cancellation will be furnished the state or local agency Records Officer.

Disposal of Public Records

166-30-060 A Special Schedule approved by the State Archivist, or an applicable General Schedule published in these rules, is an authorization for an agency to destroy public records which have met the minimum retention period, subject to the prior audit requirements of OAR 166-30-041 and any suspension ordered under the provisions of OAR 166-30-045. Disposal of such public records and public records eligible for destruction under the provisions of any statute shall be by:

(1) Shredding, pulping, or incineration. Public records which are confidential by law and negotiable instruments (even when cancelled or satisfied in writing) must be destroyed by shredding, pulping, or incineration. The destruction should be supervised and witnessed by a responsible employe of the agency. When using a contractor to destroy public records, the state or local agency must require posting of a bond or undertaking by the contractor to indemnify the state or local agency against any claims or actions resulting from his failure to protect the confidentiality of the public records, and must require a provision precluding sale, transfer, or delivery of the public records to a third party prior to data obliteration. The agreement shall also include provisions requiring secure transit to and handling by the contractor; and prompt processing of the public records by the contractor to fully obliterate the data they contain by shredding, pulping, or incineration.

(2) Recycling. Records which are not confidential by law may be sold or traded for recycling of the fibre or chemical they contain, provided that the sale or trade agreement includes provisions to insure that the public records are promptly converted into a form which precludes use of the information they contain.

(3) Deposit in a Library or Museum. The originals of public records which have been microfilmed in compliance with ORS 192.040 to 192.070 and OAR 166-30-070, and other public records which have continuing local historical value although destruction is authorized, may be deposited in a Library, Museum, or Historical Society if disclosure of the record is not prohibited by law and the depository agrees to comply with ORS 162.305, 192.420, and 192.430. Agreements for such deposits must stipulate that the depository cannot sell or otherwise dispose of the public records except by lawful and complete destruction or by returning them to the depositing agency. The State Archivist shall be notified in writing prior to such deposits.

Microfilming

166-30-070 Microfilm may be substituted for any paper or machine readable records if it is made according to the following standards:

(1) A security copy of microfilm of public records which have a required minimum retention period of 10 years or longer must be made and stored in accordance with the American National Standards Institute specifications for Microfilm for Archival Records on silver gelatin film. The security copy must be reserved and used solely as a master for making working copy duplicate film when required.

(2) Working copies of microfilm, and microfilm of public records with a minimum retention of less than 10 years, may be made in accordance with agency standards and requirements for the retention of the public records, including the option of using any film, processing system, or storage containers the agency may select.

Division 40

General Schedules

General

166-40-006 The General Schedules contained in this division prescribe minimum retention periods for many public records.

(1) These schedules authorize destruction of public records for which permanent retention is not prescribed which have met the minimum retention period, subject to the prior audit requirements of OAR 166-30-041 and any suspension ordered under the provisions of OAR 166-30-045. Unless otherwise stated, a retention period is calculated from the date the public record was created.

(2) Specific approval from the State Archivist by means of a Special Schedule is required to dispose of public records which are not listed in an applicable General Schedule found in these rules.

(3) A Special Schedule approved under the provisions of OAR 166-30-026 and OAR 166-30-027 for an individual state or local agency supersedes the General Schedule insofar as it applies to the same public records.

(4) Microfilm may be substituted for any paper or machine readable public records, if it is made in compliance with OAR 166-30-070. The same minimum retention period as specified in a General or Special Schedule applies to microfilm copies of public records.

(5) Notwithstanding any retention period listed in an applicable General Schedule, no public record created in or prior to 1920 shall be destroyed without the express written permission of the State Archivist.

(6) Minimum retention periods listed in a Special Schedule or an applicable General Schedule may not be reduced as part of a collective bargaining agreement.

Definitions

166-40-010 In addition to the definitions contained in OAR 166-05-010, the following definitions apply to this division:

(1) "Current" when specified as the minimum retention period means that superseded, rescinded, expired, or no longer useful records may be removed from the files and may be destroyed.

(2) "Housekeeping Records" means records which relate to budget, fiscal, personnel, supply, and similar administrative or facilitative operations normally common to all agencies, as distinguished from program or substantive records that relate to an organization's primary functions.

(3) "Program Records" means records created and maintained by an agency in the conduct of substantive functions for which it is responsible. The term is used in contrast with housekeeping or facilitative records.

General Records Retention Schedule for the Public Schools of Oregon

Educational Service Districts, School Districts, and Individual School Records

OAR 166-40-1100 This General Schedule prescribes minimum retention periods for public records created and maintained by the public schools of Oregon including educational service districts, school districts, and individual schools. The General Schedules contained in OAR 166-40-060 to 166-40-1050 are no longer applicable to these records as of the effective date of this rule.

Sections

1.0 Administration

2.0 Business Services

3.0 Food Services

4.0 Instruction

5.0 Payroll

6.0 Personnel

7.0 Pupil Transportation

8.0 Student Records

9.0 Student Services

1.0 Administration

1.1 Annual Report

ESD, district, or school-level report summarizing operations, programs, and financial status.

Minimum Retention: Permanent

1.2 Architectural Drawings

"As built" copies of surveying, architectural, and engineering drawings and blueprints of building construction, repair, and improvement.

Minimum Retention: Permanent

1.3 Asbestos Inspection Reports/Management Plan

Minimum Retention: Permanent

1.4 Board, Commission, and Committee Minutes

The official copy of the meeting minutes of governing bodies created by statute, order, or ordinance.

Minimum Retention:

Permanent: Minutes
10 years: Agendas, exhibits, and other supporting records
2 years: Sound recordings*

1.5 County School Superintendent/District Clerk's Annual Reports

No longer created. Contains statistical and narrative information concerning enrollment, teachers, textbooks, facilities and finance.

Minimum Retention: Permanent

1.6 District Boundary Formation and Reorganization Records

Includes District Boundary Board decisions, plats and maps, and supporting records.

Minimum Retention: Permanent

1.7 Eighth Grade Examinations

No longer created. Contains student name, subject area tested, score and other information.

Minimum Retention: Permanent

1.8 General Correspondence

Letters and memoranda sent and received, including notes, acknowledgements, transmittals, and any attachments. (See also Fiscal Correspondence, 2.20)

Minimum Retention: 1 year

1.9 Fire Marshal Inspection Records

Minimum Retention: 2 years

1.10 Histories

A report, scrapbook, or file created at the ESD, district, or school-level documenting important organizational changes, events, and projects. May include newsletters, clippings, press releases, and photographs.

Minimum Retention: Permanent

1.11 Independent Textbook Adoption Authorizations

Minimum Retention: Until superseded

1.12 Legal Case Files

Minimum Retention: 10 years, after final disposition

1.13 Northwest Association of Schools and Colleges Evaluations

Minimum Retention: Permanent

*Sound recordings may not be substituted for required written minutes. (See ORS 192.650)

1.14 Performance, Fidelity, and Position Bonds

Minimum Retention: 2 years, after expiration

1.15 Property Ownership Records

May include deeds, abstracts of title, easements, right of ways, appraisals and supporting records.

Minimum Retention: Permanent

1.16 Policies, Plans, and Procedures

Official copy of District or ESD Board adopted bylaws, policies, plans, procedures, and administrative regulations.

Minimum Retention: Permanent

1.17 School Census Records

"Actual" census reporting requirement ended in 1971. Contains the names and ages of persons 4 through 20 years old in each county/district for apportionment purposes.

Minimum Retention: Permanent

1.18 Standardization Records

May include self-evaluation reports, Department of Education on-site inspection reports, waiver authorizations, and related correspondence.

Minimum Retention: Permanent

1.19 Special Studies/Surveys

Surveys or studies conducted by the ESD, district, school, and the Oregon Department of Education or other state, federal, and private agencies on curriculum and program offerings, student achievement, staffing, standards, and other topics.

Minimum Retention: 5 years, after completion.

2.0 Business Services

2.1 Accounts Payable Records

May include invoices, statements, vouchers, purchase orders, payment authorizations, receipt records, and cancelled checks or warrants. (See also Building Construction Repair and Improvement Records, 2.16.)

Minimum Retention:

2 years: General accounts
5 years: Documenting expenditure of federal funds

2.2 Accounts Receivable Records ("Local" Sources)

Records documenting application for, and receipt of, funds from local revenue sources. Sources may include tax levies, local government units, regular day school tuition, adult continuing education programs, summer school programs, school transportation and food

service programs, co-curricular activities, community services programs, textbook and other rentals, private contributions, and services to LEAs.

Minimum Retention: 2 years

2.3 Accounts Receivable Records ("Intermediate" Sources)

Records documenting application for, and receipt of, funds from intermediate revenue sources. Sources may include the County School Fund, ESD Equalization and Special Program Funds, and the State Timber Revenue Fund.

Minimum Retention: 2 years

2.4 Accounts Receivable Records ("State" Sources)

Records documenting application for, and receipt of, funds from state revenue sources. Sources include the Basic School Support Fund, Common School Fund, State Timber Revenue Fund, and the Special Education, Driver Education, Vocational Education and Special School assistance funds.

Minimum Retention: 2 years

2.5 Accounts Receivable Records ("Federal" Sources)

Records documenting application for, and receipt of, funds from federal revenue sources. Includes funds apportioned through the Oregon Department of Education or another state agency, or received direct from federal agencies. Federal funding programs may include ECIA, ESEA, PL 94-142, JTPA, Migrant Title 7, Indian Education, and others. Records may include project applications, awards, performance and financial reports, supporting fiscal documentation, and related correspondence.

Minimum Retention: 5 years

2.6 Adopted Budget

Minimum Retention: 20 years

2.7 Annual Financial Statement

Minimum Retention: Permanent

2.8 Audit Report

Annual audit of accounts conducted in accordance with statutory requirements.

Minimum Retention: 20 years

2.9 Audit Summary

Minimum Retention: 2 years

2.10 Bank Statements

May include account statements, deposit and withdrawal slips, and checks.

Minimum Retention: 2 years

2.11 Bond Coupons and Receipts

Minimum Retention: 6 years, after final payment

2.12 Bond Register

Minimum Retention: 6 years, after final payment

2.13 Budget Preparation Records

Minimum Retention: 2 years

2.14 Budget Status Reports

Minimum Retention: Until Superseded

2.15 Budget Summaries

Minimum Retention: Until Superseded

2.16 Building Construction, Repair, and Improvement Records

Minimum Retention:

Permanent: "As built" blueprints, surveys, and final plans
10 years, after project completion: Fiscal and administrative documentation

2.17 Competitive Bids and Quotes

Includes accepted and rejected bids.

Minimum Retention: 6 years

2.18 Contracts, Leases, and Agreements

Minimum Retention:

2 years, after expiration: Interagency
3 years: Personal service
6 years, after expiration: Third party

2.19 Financial Election Records

One-time, serial, and tax base bond levies. May include proposals, assessor's certification, statement of returns, and statistical reports to Oregon Department of Education.

Minimum Retention: 2 years

2.20 Fiscal Correspondence

Copies of letters and memoranda sent and received pertaining to accounts payable or receivable, or to private or public fiscal obligations, filed separately.

Minimum Retention: 2 years

2.21 General Ledger

Minimum Retention: 75 years

2.22 Insurance Claim Records

Minimum Retention: 3 years, after settlement

2.23 Insurance Policies

Minimum Retention: 3 years, after superseded or expiration

2.24 Inventory Records

Minimum Retention:

2 years: Expendable property
6 years: Non-expendable property

2.25 Purchasing Records

May include orders, authorizations, and evidence of receipt.

Minimum Retention:

2 years: General accounts
5 years: Documenting expenditures of federal funds
6 years: Competitive bids and quotes

2. 26 Subsidiary Journals/Ledgers

Considered not part of the General Ledger. May include expenditures, revenues, encumbrances, cash receipts, and warrants.

Minimum Retention:

2 years: General documents
5 years: Documenting receipt or expenditure of federal funds

3.0 Food Services

3.1 Child Nutrition Program Reviews

Minimum Retention: 3 years

3.2 Free and Reduced Price Meal Applications

Minimum Retention: 3 years

3.3 Food Service Management Contracts and Agreements

Minimum Retention: 6 years, after expiration

3.4 Meal Count Records

Minimum Retention: 3 years

3.5 Menu Production Records

Minimum Retention: 3 years

3.6 Monthly Claim of Operations

Minimum Retention: 3 years

3.7 Oregon Department of Education Program Agreements

Minimum Retention: 3 years, after expiration

3.8 Sanitation Inspection Reports

Minimum Retention: 3 years

3.9 USDA Commodity Inventory Records

Minimum Retention: 3 years

4.0 Instruction

4.1 Co-Curricular Activities Records

Includes school-sponsored activity records, student financed and managed activity records, and competitive athletic activity records.

Minimum Retention:

2 years: Fiscal records
1 year: Other records

4.2 Parent-Teacher Conference Records

Minimum Retention: 1 year

4.3 Teacher Daily Instructional Plans

Minimum Retention: 1 year

4.4 Teacher Grade Records

Minimum Retention: 1 year, after information transferred to Student Permanent Record (8.6)

5.0 Payroll

5.1 Benefits Accrual Report

May contain sick, compensatory time, and vacation leave usage and accrual.

Minimum Retention: 2 years, after employe separation

5.2 Deduction Authorizations

Minimum Retention: 5 years, after superseded

5.3 Direct Bank Deposit Authorizations

Minimum Retention: 2 years, after superseded

5.4 Employers Quarterly Federal Tax Return (941, 941E)

Minimum Retention: 5 years

5.5 Federal Tax Deposit Coupon (8109)

Minimum Retention: 5 years

5.6 Oregon Annual Withholding Reconciliation Report (WR)

Minimum Retention: 5 years

5.7 Oregon Quarterly Withholding Tax Return (WQ)

Minimum Retention: 5 years

5.8 Oregon Withholding Tax Payment Coupon (WP)

Minimum Retention: 5 years

5.9 Payroll Register

A complete listing of all employe earnings, fixed charges, and voluntary deductions for each month of the calendar year.

Minimum Retention: 75 years

5.10 PERS Annual Reports

Minimum Retention: 2 years

5.11 PERS Notice of Separation

Minimum Retention: 2 years

5.12 Savings Bonds Issued Register

Minimum Retention: 2 years

5.13 Social Security Remittance Advice Report

Minimum Retention: 5 years

5.14 Time Records

Minimum Retention:

2 years: General funds
5 years: Documenting expenditure of federal funds

5.15 Unemployment Compensation Claim Reports

Minimum Retention: 2 years

5.16 Unemployment Quarterly Report

Minimum Retention: 5 years

5.17 Wage and Tax Statements (W-2)

Minimum Retention: 5 years

5.18 Wage Garnishment Authorizations

Minimum Retention: Until satisfied

5.19 Workers Compensation Claim Files

Minimum Retention: 5 years, after settlement

6.0 Personnel

6.1 Certificated Personnel Report

Minimum Retention: 5 years

6.2 Collective Bargaining Records

Minimum Retention:

Permanent: Contracts
Until contract superseded: Supporting records

6.3 Employe Emergency Notification Record

Minimum Retention: Until superseded

6.4 Employe Grievance Records

May include private arbitrator or Employment Relations Board rulings, correspondence, and other supporting documentation.

Minimum Retention: 3 years, after settlement

6.5 Employe Handbook

Minimum Retention: 3 years, after superseded

6.6 Employe Written Reprimands

Minimum Retention: 3 years*

6.7 Equal Employment Opportunity Commission Compliance Reports

Minimum Retention: 3 years

6.8 Fair Dismissal Board Appeal Decisions

Minimum Retention: 75 years

6.9 Individual Employe Personnel Records

Minimum Retention: 10 years, after separation

6.10 Position Descriptions

Minimum Retention: Retain current and previous for each position

6.11 Recruitment Records

May include job announcements, applications, position descriptions, and related correspondence. (See also Unsolicited Employment Applications, 6.18)

Minimum Retention: 3 years

6.12 Staff Training Records

Minimum Retention: 3 years

*This requirement may not be reduced as part of a collective bargaining agreement. (OAR 166-40-006(6))

6.13 Staff Directories

Minimum Retention: 10 years

6.14 Substitute Teacher Registration Records

Minimum Retention: 1 year

6.15 Teacher Classroom Assignment Records

Minimum Retention: 1 year

6.16 Teacher Misassignment Approvals

Minimum Retention: 3 years

6.17 Teacher Registration and Certification Records

Early records may include county superintendent administered exam results, copies of examinations, and teacher salary information.

Minimum Retention: Permanent

6.18 Unsolicited Employment Applications

May include applications, resumes, and correspondence.

Minimum Retention: 3 Months

7.0 Pupil Transportation

7.1 Bus Service/Maintenance Vendor Contracts

Minimum Retention: 6 years, after expiration

7.2 Driver Licensing/Permit Approval List

May include date of employment, date of application, license type, and date of license expiration.

Minimum Retention: 4 years

7.3 Driver Training/Testing Records

Type 10 and 20 Pupil Transporting Vehicle driver training records, including completed test form and certificate of competency. Contains course date, course title, instructor name and location, test date, tester's name, type and capacity of bus tested on, experience in lieu of training documentation, and related information.

Minimum Retention: 4 years

7.4 Emergency Driver Approvals

Contains driver name, type of license held, license number, days and route driven, and date of application and expiration.

Minimum Retention: 4 years

7.5 Pupil Safety Instruction Records

May contain date, names of pupils involved, type of instruction, location and instructor's name.

Minimum Retention: 4 years

7.6 Vehicle Maintenance Records

Includes annual inspection and certification reports and specified routine maintenance information for each vehicle.

Minimum Retention:

4 years: Annual reports
2 years, after vehicle disposal: Maintenance records

8.0 Student Records

8.1 Student Progress Records (Regular Programs)

Includes registration card, transcript of grades, courses taken, attendance records, achievement tests or measurement of ability, health records, teacher progress reports, Uniform Migrant Student Transfer Records, and transcripts from other schools.

Minimum Retention: 3 years, after student departure

8.2 Student Behavior Records (Regular Programs)

Minimum Retention:

3 years, after student departure: May include psychological tests, personality tests, group or individual intelligence tests, individual educational programs, physician's statements, state or local government agencies reports, communications related to suspension or expulsion, special education records, and notice of placement in behavioral program.

Until current school year ends: May include minor behavior referrals from staff, records of conversations, parent notes regarding student behavior, written behavioral agreements between the student and school, detention records, bus citations, and other written descriptions of minor behavioral infractions which do not result in suspension or expulsion.

8.3 Student Progress Records (Special Education Programs)

Individual education plan exclusively documenting academic performance.

Minimum Retention: 5 years, after student departure

8.4 Student Behavior Records (Special Education Programs)

Includes written notice of Individual Education Plan meeting, student evaluation referral, behavior observation records, physician's statements, eligibility statements, records of attempts to contact parents, notice of intent to destroy records, and written prior notice and written parental consent forms as required by PL 94-142.

Minimum Retention: 5 years, after student departure

8.5 Student Health Records

May include student medical record, audio metering and vision test results, immunization records, physical examination records, and Migrant Student Record Transfer System reports.

Minimum Retention: 3 years, after student departure

8.6 Student Permanent Record

Contains the following information: full name, date of birth, names of parents or legal guardian, legal address, entry date, previous school attended, subjects taken, marks received, credits earned, competencies completed, record of attendance, and date entered and left school.

Minimum Retention: Permanent*

9.0 Student Services

9.1 Accident/Injury Reports

Minimum Retention: Until child reaches age 20

9.2 County Health Department Reports

Minimum Retention: 2 years

9.3 Interscholastic Team Participation Eligibility Report

Minimum Retention: 2 years, after end of student eligibility

9.4 Pupil Personnel Accounting Reports

Minimum Retention: 2 years

9.5 Oregon School Register

Minimum Retention: Permanent

9.6 School Library Circulation Records

Minimum Retention: 1 year

9.7 Student Assignment Lists

May include class, room, locker, counselor, bus, and other assignment lists.

Minimum Retention: 1 year

9.8 Student Conduct Handbooks

Minimum Retention: 3 years, after superseded

9.9 Student Grievance Records

Minimum Retention: 3 years, after resolution

*Record must be produced on paper or silver gelatin microfilm according to standards specified in OAR 166-20-050 and 166-30-070. No other storage formats shall be permitted to serve as the record copy of the Student Permanent Record, including computer disc or tape.

9.10 Student Promotion/Graduation Lists

May include eighth-grade promotion and high school graduation lists.

Minimum Retention: Permanent

9.11 Student Records Disclosure Requests

Minimum Retention: 2 years

9.12 Student Transfer/Withdrawal Records

Minimum Retention: 3 years

9.13 Truancy Investigation Records

May include notice of non-attendance or truancy, staff reports, hearing records, suspension notifications, and related correspondence.

Minimum Retention: 3 years